

# STRENGTHENING ECONOMIC SECURITY FOR CHILDREN LIVING IN LGBT FAMILIES

January 2012



## Authors



## In Partnership With



A Companion Report to "All Children Matter: How Legal and Social Inequalities Hurt LGBT Families."  
Both reports are co-authored by the Movement Advancement Project, the Family Equality Council, and the Center for American Progress.

## This report was authored by:

### **Movement Advancement Project**

The Movement Advancement Project (MAP) is an independent think tank that provides rigorous research, insight and analysis that help speed equality for LGBT people. MAP works collaboratively with LGBT organizations, advocates and funders, providing information, analysis and resources that help coordinate and strengthen their efforts for maximum impact. MAP also conducts policy research to inform the public and policymakers about the legal and policy needs of LGBT people and their families. For more information, visit [www.lgbtmap.org](http://www.lgbtmap.org).

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Family Equality Council works to ensure equality for LGBT families by building community, changing public opinion, advocating for sound policy and advancing social justice for all families. Family Equality Council provides support and resources to LGBT-headed families, and leverages the power of families by sharing their stories and driving change in communities and states across the nation. Family Equality Council educates members of government, schools, faith-based communities, healthcare institutions and other social systems about how they can promote family equality. Family Equality Council also partners with other LGBT and broader social justice organizations to provide the greatest positive impact and to maximize resources. For more information, visit [www.familyequality.org](http://www.familyequality.org).

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## *Note About this Companion Report*

This report is a companion report to "All Children Matter: How Legal and Social Inequalities Hurt LGBT Families," which is available online through [www.lgbtmap.org/lgbt-families](http://www.lgbtmap.org/lgbt-families) or through any of the co-author websites.

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## INTRODUCTION

Public discussion about American families often assumes the nation is largely made up of married heterosexual couples raising their biological children. In fact, less than a quarter of all U.S. households fall into this category. Today's children may be raised by grandparents, single parents, stepparents, aunts, uncles or foster parents. Their parents may be married or unmarried; they may be straight or gay.

Unfortunately, public policy has not kept up with the changing reality of the American family, especially during recent periods of national economic crisis. Instead, outdated laws largely ignore the roughly two million children being raised by lesbian, gay, bisexual and transgender (LGBT) parents, as well as many children in unmarried heterosexual families or families headed by related caregivers. Tragically, the barriers and discrimination faced by 21st century families due to outdated laws and policies often pose the greatest harm to the children who could most benefit from safety net programs, including children living in low-income or struggling LGBT families.

In October 2011, the Movement Advancement Project, the Family Equality Council, and the Center for American Progress released the report, "All Children Matter: How Legal and Social Inequalities Hurt LGBT Families." The report offers one of the most comprehensive portraits to date of LGBT families in America and details ways in which antiquated laws and stigma make it harder for children with LGBT parents to have their needs met in three areas: stable, loving homes; economic security; and health and well-being.

This report, "Strengthening Economic Security for Children Living in LGBT Families," is the first in a companion series to the "All Children Matter" report. Focusing specifically on economic security and safety net programs, this companion report expands the conversation about economic disparities faced by LGBT families. It contains national and state policy recommendations, but also broadens the recommendations to apply to those working directly with children and families, and the foundations and funders who support their work.

In the introduction, we provide a quick high-level overview of the diversity of LGBT families: who they are, where they live, and the economic realities they face. The next section focuses on the paths to parenthood

### Terminology: "LGBT Families"

This report uses "LGBT families" to refer either to families in which an LGBT adult is raising children or to families in which a same-sex couple is raising children. We use this term for simplicity while noting that the term is most likely not reflective of the sexual orientation of the children in such households. Our more restricted use of the term "LGBT families" is not meant in any way to diminish those who live in families without children. We also recognize that many LGBT adults who do not have children form families with life partners, close friends and other loved ones who provide support.

for LGBT parents and the myriad social and economic hurdles that they face as they build their families. The remainder of the report brings to life the additional and unnecessary financial burdens on LGBT families and how they impact family economics. It also highlights the failure of governmental lifelines and safety net programs to support children living in LGBT families, including when a parent dies or becomes disabled or when a family is living in poverty.

Finally, in addition to providing policy recommendations, this report lists some practical steps that service providers and funders can take to work alongside policymakers to remove the hurdles and barriers faced by low-income LGBT families. This list of recommendations is not meant to be exhaustive or final. Instead, it is our hope that this report will help drive creative policy change—and serve as a catalyst for local and regional service organizations, advocates and funders to work together to implement solutions that meet the unique needs of low-income LGBT families.

### LGBT Families are Part of the American Fabric

America's families are changing. Today, just 69% of children live with married heterosexual parents, down from 83% in 1970.<sup>1</sup> Between 2.0 and 2.8 million children are being raised by LGBT parents, and that number is expected to grow in the coming years.<sup>2</sup>

According to the U.S. Census, currently, 24% of female same-sex couples are raising children and 11% of male same-sex couples are raising children.<sup>3</sup> More than one-third of lesbians without a child want to have children, and

three-quarters of bisexual women without children want to have children.<sup>4</sup> Of gay men who have not had children, 57% want to have children as do 70% of bisexual men.<sup>5</sup> Of transgender Americans, a recent survey finds that 38% of those being surveyed identify as parents.<sup>6</sup>

### Geographically Diverse

Although you might expect that LGBT families live in major metropolitan areas or in states with policies friendly to LGBT Americans, LGBT families are geographically dispersed, living in 93% of all U.S. counties.<sup>7</sup> States like California and New York have high numbers of same-sex couples, yet same-sex couples are most likely to raise children in Mississippi, followed by Wyoming, Alaska, Arkansas, Texas, Louisiana, Oklahoma, Kansas, Alabama, Montana, South Dakota and South Carolina (see *Figure 1*). To reinforce the critical need for a strong safety net for children with LGBT parents, it is also important to note that half of these are states where more than one in four children live in poverty (see *Figure 2*) and that all of these states are also among the very lowest in terms of LGBT legal equality (see *Figure 3*).<sup>8</sup>

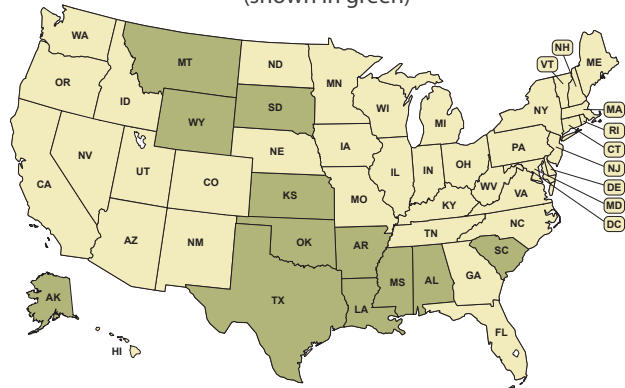
### Racially and Ethnically Diverse

LGBT families are racially and ethnically diverse—more so than married heterosexual couples raising children. Same-sex couples of color are more likely to be raising children than white same-sex couples.<sup>9</sup> Only 59% of same-sex couples with children identify as white compared to 73% of married heterosexual couples with children. Similarly, 55% of children raised by same-sex couples are white compared to 70% of children raised by married heterosexual couples.<sup>10</sup> Finally, data from the 2010 Census indicates that there are an estimated 28,500 binational same-sex couples in the U.S. (couples where one member is not an American citizen).<sup>11</sup> A quarter of binational male same-sex couples and 39% of binational female same-sex couples are raising an estimated 17,000 children.<sup>12</sup>

### Lower Income, Higher Poverty

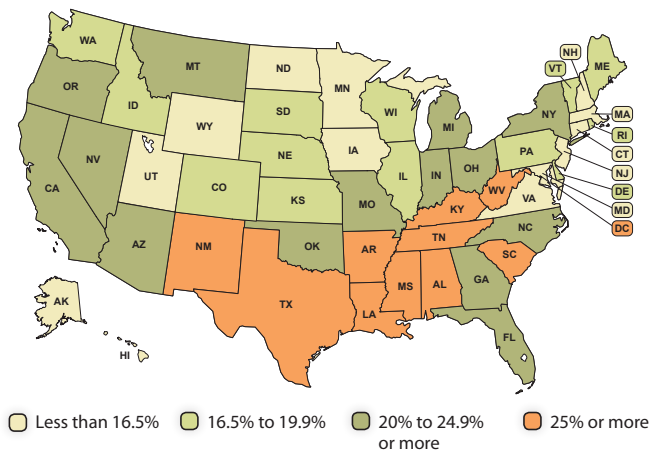
In 2010, 22% of all American children lived in poverty, with the same percentage of children living in “food insecure” households (homes in which families worried about having enough food). Contrary to stereotypes, children being raised by same-sex couples are twice as likely to live in poverty as those being raised by married heterosexual parents (see *Figure 4* on the next page).

**Figure 1: Top 12 States Where Same-Sex Couples are Raising Children**  
(shown in green)



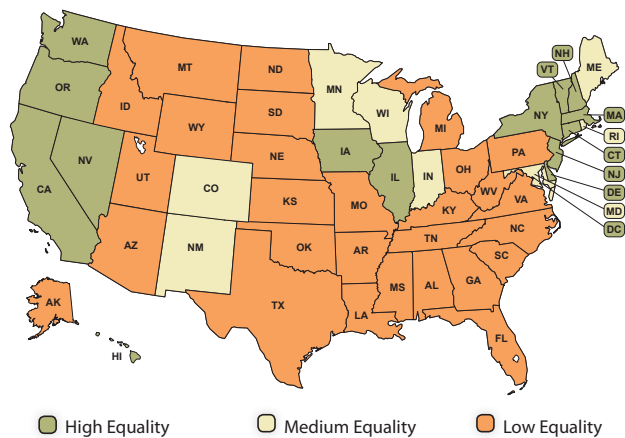
Source: Gary J. Gates and Abigail M. Cooke, Census 2010 Snapshot Series, The Williams Institute, 2011.

**Figure 2: Percentage of Children in Poverty in the Past 12 Months by State: 2010**



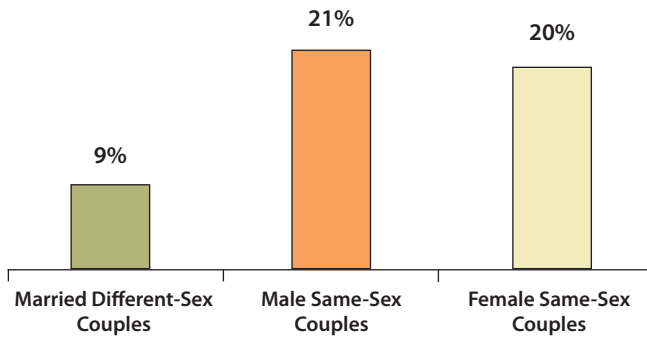
Source: U.S. Census Bureau, 2010 American Community Survey.

**Figure 3: LGBT Legal Equality by State**



Source: Equality Maps, Movement Advancement Project.

**Figure 4: Percent of Families Raising Children Who Live in Poverty**



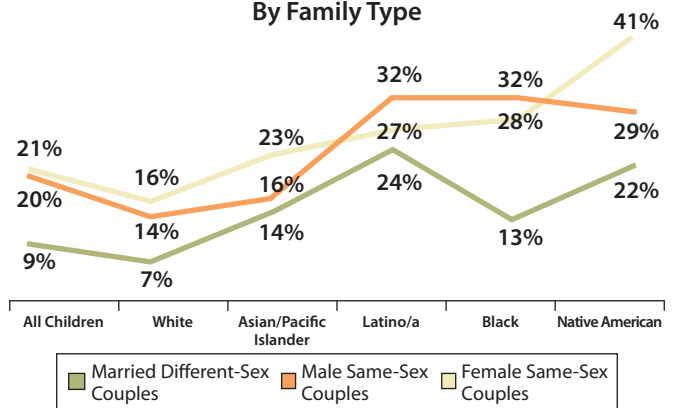
Source: Randy Albelda, M.V. Lee Badgett, Alyssa Schneebaum and Gary J. Gates, "Poverty in the Lesbian, Gay and Bisexual Community," The Williams Institute, 2009.

Reflecting trends in the broader population, same-sex couples of color raising children are more likely to be poor than white same-sex couples raising children (see *Figure 5*).<sup>13</sup> For example, of lesbian couples with children, poverty rates are 14% for white households, 16% for Asian Pacific Islander households, 29% for Native American households, and 32% for Latino and African American households.<sup>14</sup> While research about families headed by transgender parents is limited, transgender people in general face severe economic challenges. For example, a large national survey of transgender Americans found 15% reported making \$10,000 or less per year—a rate of extreme poverty four times that of the general population.<sup>15</sup>

Looking at middle-income America, 31% of same-sex couples raising children have household income below \$50,000 compared to 27% of married heterosexual couple raising children.<sup>16</sup> While lower incomes are not always a predictor of the need for safety net services, children living in LGBT families face undue financial burdens, just because their parents are lesbian or gay. These additional burdens can make them more vulnerable during family crises like unemployment, death, or disablement of a parent.

The following sections of the report detail the challenges LGBT parents face in establishing legal ties to their children, how these challenges add to the social and economic barriers faced by LGBT families, and the critical importance of ensuring that safety net programs protect every child, regardless of how their families are structured. Stories in this report are based on the lived experiences of real families, although in some instances, names, locations and minor details have been changed to preserve privacy.

**Figure 5: Percent of Children Living in Poverty, By Family Type**



Source: Randy Albelda, M.V. Lee Badgett, Alyssa Schneebaum and Gary J. Gates, "Poverty in the Lesbian, Gay and Bisexual Community," The Williams Institute, 2009.

### Research Confirms Positive Parenting Outcomes for LGBT Parents

The lived experiences of LGBT families vary widely and defy generalization. Indeed, despite the unique pressures LGBT families face, what is perhaps most remarkable about them is how much they are like other families and how much their children are like other children.<sup>17</sup>

Despite misleading claims from those who oppose LGBT parenting, more than 30 years of rigorous social science research shows that children raised by LGBT parents are just as happy, healthy and well-adjusted as children raised by heterosexual parents. Additionally, nearly every major authority on child health and social services, including the American Academy of Pediatrics and the Child Welfare League of America, has determined that a parent's sexual orientation has nothing to do with the ability to be a good, effective parent.

*"A growing body of scientific evidence demonstrates that children who grow up with one or two parents who are gay or lesbian fare as well in emotional, cognitive, social, and sexual functioning as do children whose parents are heterosexual."*

—Child Welfare League of America

## LACK OF LEGAL RECOGNITION FOR LGBT FAMILIES

When a child is born to, or adopted by, a married heterosexual couple, that child is generally recognized by all 50 states as the legal child of both parents. By contrast, a child with LGBT parents faces a climate of uncertainty. A child awaiting adoption might be denied a forever home simply because the caring adults who want to provide it are a same-sex couple. A lesbian couple using donor insemination might find that the non-biological mother is a legal stranger to her child. Or, both mothers might be considered legal parents in one state, yet only one mother might be considered to be a legal parent in another. Finally, the federal government may not recognize both parents as legal parents even when the state in which the family lives does so.

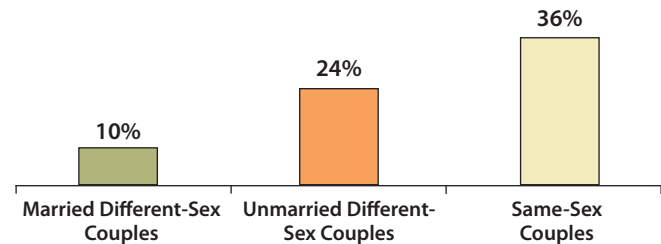
Most families don't think twice about how to show the world who the legal parents are in their household. But many LGBT families are likely to encounter this concern throughout their lives. When parents are legal strangers to their children, families may be unable to get health insurance, face higher tax burdens, and be denied safety net services when facing economic crises. Because the lack of legal ties results in so many of the challenges faced by LGBT families, the section that follows discusses how this lack of legal ties occur, beginning at the very first moment that a child joins the family.

### The Paths to Parenthood for LGBT Families

LGBT families form in myriad ways. LGBT parents may want to foster or adopt. They may have children from previous relationships. For LGBT couples wishing to conceive and parent a newborn child together, parenthood may come about through donor insemination or surrogacy (though these options may be too expensive for many families).

Regardless of how LGBT families form, laws may not exist to protect the family by ensuring that children have or can establish legal relationships with both parents. This inability to form legal ties leads to higher percentages of "unrelated" children for LGBT parents. Recent analysis of Census data on same-sex couples raising children indicates that 36% of same-sex households with children include adopted children, stepchildren, and non-related children compared to 10% for married heterosexual couples and 24% for unmarried heterosexual couples (see *Figure 6*).<sup>18</sup>

Figure 6: Households with Adopted Children, Stepchildren, and/or Unrelated Children



Source: Kristy M. Krivickas and Daphne Lofquist, "Demographics of Same-Sex Couple Households with Children," U.S. Census Bureau, 2011.

### Foster & Adoptive Families

An estimated 14,000 foster children, or 3% of all foster children, currently live with LGB foster parents.<sup>19</sup> Same-sex couples who become foster parents are more likely to be families of color than heterosexual married foster parents.<sup>20</sup>

Gay and lesbian Americans are also raising an estimated 65,000 adopted children, or 4% of the 1.6 million adopted U.S. children.<sup>21</sup> Research suggests LGBT parents may be more willing than heterosexual parents to adopt children with special needs, who are among the most difficult to place.<sup>22</sup>



**Barrier:** Many states' laws make it difficult for LGBT parents to jointly foster and adopt.

Although all states currently allow single individuals living alone to adopt (including LGBT adults), some states prioritize married couples or bar individuals from adopting if they are unmarried and living with a partner. These restrictions mean longer waits or the denial of forever homes for the roughly 115,000 children available for adoption in the child welfare system.

For same-sex couples wishing to start a family, joint adoption allows both members of a couple to simultaneously adopt a child, creating legal ties to both parents from the outset. While all states allow married heterosexual couples to adopt jointly, same-sex couples (and unmarried heterosexual couples) face uncertainty in many states and jurisdictions and are effectively banned from adopting jointly in five states (see *Figure 7* on the next page).<sup>23</sup> Even within states that permit foster care and adoption by LGBT families, the lack of training about working with prospective LGBT parents may increase opportunities for bias and discrimination during application and qualification processes.

In states that prohibit joint adoption by same-sex couples, one LGBT parent may try to adopt as a single person, but this leaves the child with only one legal parent. From the very start, this lack of legal ties creates challenges for LGBT families.

### Blended Families & Stepfamilies

As with many heterosexual families, LGBT parents may form blended families that include children from earlier partnerships and marriages.



**Barrier:** Only 19 states and D.C. allow LGBT stepparents to adopt.

In most states, LGBT adults who act as stepparents are denied access to adopt their non-biological children using a legal process for a stepparent adoption or a second-parent adoption – leaving their children with legal ties to only one of their two parents. Only 19 states and D.C. have laws or court decisions that permit stepparent or second-parent adoption (see *Figure 8*). As a result, an LGBT adult who partners with an existing parent may fully function as a “stepparent,” but may not be recognized as a legal parent by law.

### Assisted Reproduction & Surrogacy

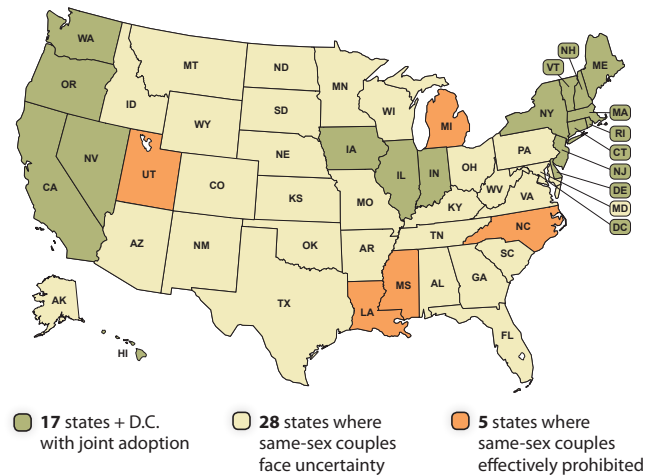
When a child is conceived by a married heterosexual couple using assisted reproduction such as donor insemination, the child is automatically considered the legal child of both the mother and her consenting husband (even though the husband is not biologically related to the child). The law’s automatic presumption that the husband is a legal parent is known as a “presumption of parentage,”<sup>24</sup> and generally extends only to couples in legally-recognized relationships such as a marriage or civil union.



**Barrier:** Even when LGBT parents conceive a child together using assisted reproduction, the non-biological parent is often a legal stranger to her child.

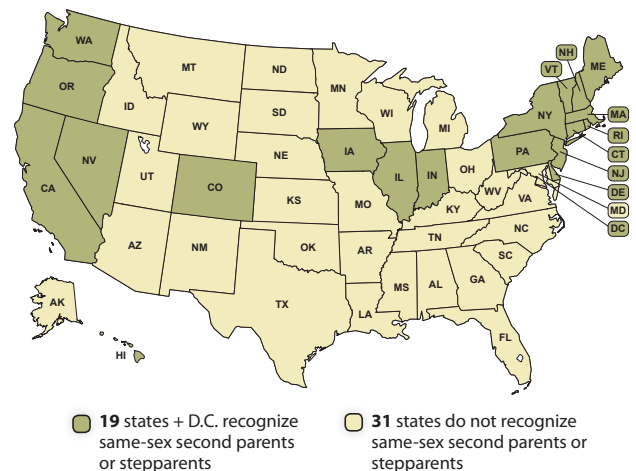
When a lesbian couple has a child using donor insemination, the non-biological mother is a “presumed parent” only if she lives in one of a minority of states that offer marriage or comprehensive relationship recognition.<sup>25</sup> In all other states, the non-biological

**Figure 7: Joint Adoption by Couples**



NOTE: In some cases, access to joint adoption may require being in a marriage, civil union or domestic partnership.

**Figure 8: Stepparent or Second-Parent Adoption**



mother is usually considered a legal stranger to her child (though in a few states she might be able to establish legal ties after the fact through another legal route such as second-parent adoption).

Surrogacy law is complicated regardless of whether the intended parents are a heterosexual or same-sex couple. Contracting with a surrogate parent can be extraordinarily expensive, and same-sex couples face additional hurdles in creating legal ties to their children.

## How Lack of Legal Recognition Harms Children

Throughout the nation, there is a patchwork of archaic and outdated laws that don't adequately account for modern family structures. As a result, children living in LGBT families are much more likely to have legal ties to only one parent than children living with heterosexual married parents.

The lack of ties between parents and children has legal, emotional and economic consequences. "All Children Matter" examines the breadth of these consequences. This companion report examines just the economic consequences, and more specifically, how they impact low-income LGBT families. The law's lack of recognition of LGBT families means these families face higher tax burdens. They are unable to access employer-sponsored health insurance for their children. They can't relocate to seek better jobs with better benefits. And, when a family crisis hits, they may not qualify for basic safety net programs designed to ensure that they can provide food, shelter, and medical care for their children.

The next section of this report highlights how lack of legal recognition forms the basis of many economic costs to LGBT families – costs that add up and compound over time, leaving families, and their children, at economic risk.

## SOCIAL BURDENS AND ECONOMIC COSTS FOR LGBT FAMILIES

### Allison, Tonya and Bryan: A Hometown Family



Allison and Tonya first met in 8th grade. Tonya was Allison's first crush, but when Tonya moved away to go to college, they lost touch. When they reconnected through Facebook in 2008, it was like they had never been apart. Allison was still living in the same small town in Arkansas where they grew up, and after several months of long-distance dating, Tonya moved in with Allison, and quickly became an integral part of Allison's life, joining her as a parental figure to her 13 year-old son, Bryan.

Living in a small town in Arkansas has its challenges. At first, Allison and Tonya were quiet about their family and how it was "different." Allison recalls, "My neighbors called Tonya 'my roommate.' It was hurtful, and it took a lot out of me to hide." As much as I wanted people to know about us and know that gay families exist, I needed to make sure that we had jobs and could provide for our family." At parent-teacher conferences for Bryan, the women would alternate years, attending alone, so they wouldn't have to explain their family to the teachers. Despite this, in 8th grade, Bryan participated in National Day of Silence, as a way to stand up for his belief that LGBT students and people deserved respect. The couple received a call from the principal expressing concerns about his participation.

Although Tonya found a good job with the city, it doesn't provide domestic partner benefits. And, while Allison works at a local assisted living facility, her part-time status means that they can't get health insurance coverage through her work either. Like many new families, it is too expensive to purchase coverage privately, so Allison and Bryan both remain uninsured. Only four businesses in their town offer domestic partner benefits, so finding another job that will provide benefits to the whole family isn't likely.

Despite the fact that Arkansas doesn't recognize same-sex marriage or same-sex stepparents, Allison and Tonya were married at the Unitarian Universalist church in their small town. Their wedding was, in many ways, about coming out and not hiding anymore. Over the years, acquaintances have asked Allison why they haven't moved to a state that allows them to marry or to a larger metropolitan area where there are more work opportunities and more openness to gay families. Allison and Tonya don't want to move to another city or state to have their family be accepted and protected. "I grew up here," adds Allison. "This is where we have roots. I bought this house from my parents, and we have friends and family here. This is our home."

### LGBT Families and the Price of Protecting Children

LGBT families not only face discrimination and social stigma, they also face economic burdens that most families do not. Those impacted the most are low-income LGBT families, who are also more likely to be families of color, and therefore already facing discrimination and a separate set of barriers as well. For low-income LGBT families, the additional economic obstacles to protecting and providing for their family can be insurmountable:

- **Families can't afford legal fees.** Creating legal protections that try to make up for the lack of marriage and parental ties is costly for LGBT families. Many LGBT families cannot afford the legal fees associated with second-parent adoptions, parentage judgments, parental guardianship agreements, wills and estate planning, and more.
- **Families pay higher taxes.** LGBT families cannot file joint federal tax returns (which could result in a lower tax payment), and LGBT parents who cannot establish a legal parent-child relationship are denied child-related tax deductions and credits available to other households.
- **Children have few options for welcoming schools.** Low-income LGBT families may have limited alternatives for welcoming schools for their children. Private school tuition is cost-prohibitive, and even when scholarships are available, some schools may choose not to admit children with LGBT parents.
- **Families have reduced access to health insurance for their children.** When LGBT workers cannot enroll family members in an employer-sponsored plan, they must obtain their own insurance or go without it. Even when benefits are offered, for most LGBT families, both the employee and the employer are taxed on this benefit.

## Why Don't LGBT Families Just Move?



With all of the social and economic challenges associated with living in small towns, rural communities, and states without marriage or comprehensive relationship recognition, LGBT parents are often asked why they don't relocate to more "gay-friendly" communities. The answer is the same as for most Americans: it's where we grew up.

Below is an excerpt from a recent blog post by demographer Gary J. Gates<sup>26</sup>:

"From 2005 to 2009, U.S. Census Bureau data show that 83 percent of same-sex couples had not moved in the past year, exactly the same rate as the general population. Data from the 2008 and 2010 General Social Survey shows that most LGB people (single and coupled) likely live very near where they were born. Almost 60 percent of LGB-identified people say they live in the state that they were in when they were 16 years old, and two thirds of that group still live in the same city. It's virtually the same for heterosexuals."

"This doesn't mean that LGBT people don't try to move to more progressive neighborhoods within their communities, but [it is likely that] those who live in more conservative areas are there, like their neighbors, because it's the best option for them in terms of employment, affordability, and, for some, schools and child-oriented amenities."

"Most LGBT people don't and aren't able to live in overtly LGBT-friendly places. They don't have the resources to make those kinds of choices. As a result, they likely endure some prejudice in return for being able to live in affordable areas near their families and longtime friends."

## Legal Fees Put Protection Out of Reach

Creating and protecting a family is costly for LGBT families. LGBT parents who can afford legal arrangements that offer protection carry thick packets of paperwork, including copies of birth certificates, adoption decrees, domestic partnership agreements, and living wills, just to make sure they will be recognized as a legitimate family.



*Barrier:* Many LGBT families cannot afford the legal fees for documents that can help protect their families.

Without such documents in place, a child might not inherit from a non-legally recognized parent. Or, if the child has a medical emergency, the parent who is a legal stranger will not be able to make medical decisions for the child. If the legal parent dies, the child may end up with distant relatives rather than the other parent who has raised him or her since birth.

Even in states where two same-sex parents can establish legal ties, many LGBT families cannot afford the legal fees associated with securing these ties. Since, generally speaking, only adoption judgments and court-based parentage judgments are recognized across all state lines, parents who cannot afford to take one of these extra precautions may be recognized as legal parents in one state but not in another. This can effectively render such parents unable to travel or relocate for work without putting their families in jeopardy. This in turn leaves low-income LGBT families with fewer workplace options and makes them particularly vulnerable during difficult economic times when unemployment rates are high.

In *Table 1*, we summarize the costs of just a few of the common documents that help protect LGBT families. These documents would all be unnecessary or less critical were LGBT families fully recognized under the law.

**Table 1: The Cost of Legal Protections**

	Documents	How Much They Can Cost
	Adoption through public channels, including court orders and new birth certificates	\$1,200-\$4,000
	Wills, Living Wills, and Powers of Attorney	\$500-\$3,000
	Domestic Partnership Agreements and Co-Parenting Agreements	\$300-\$350
	Appointment of Guardian	\$325-\$500
	De Facto Parenting Judgments	\$2,500-\$10,000

### An Indiana Family Shares Their Worries About Their Family's Lack of Protection



My wife (although we are not legally married, we had a ceremony) and I planned our pregnancy together and thought things like changing last names and adoption would go smoothly. But right after I got pregnant, I was laid off and we still aren't caught up with all the legal hoops we need to jump through. Although we all share the same last name now because I petitioned for a name change through court, we can't afford for my wife to adopt our beautiful son and, the way things look, we won't have the money for legal fees anytime in the near future. I have tried to look into making a will or something to name her as a guardian in case anything happens while we're trying to save up money, but people keep sending me back to the lawyers that we can't afford. In the meantime, we're getting by and praying that nothing happens to harm our family. We may not be rolling in money, but our love for each other and for our son will pull us through.

— Celia S. from Indiana

### Extra Tax Burdens

The government provides important tax credits and deductions designed to help all families, regardless of economic circumstance, ease the financial costs of raising a family. The Tax Foundation estimates that an average income American family receives approximately \$16,781 in such tax relief from the federal government each year.<sup>27</sup> The federal tax code uses a narrow definition of family, generally recognizing only heterosexual married spouses and legally-recognized children or relatives for tax filings. State tax law varies, but most jurisdictions use similarly restrictive definitions of family, penalizing LGBT families in two ways:

- LGBT families cannot file a joint federal tax return, (which could result in a lower tax payment), because the federal government does not recognize same-sex couples.
- LGBT parents who cannot establish a legal parent-child relationship are denied child-related tax deductions and credits available to other households since qualification is generally limited to tax filers with a legal child or stepchild, a foster child,

minor sibling or stepsibling, or a descendent of any of these, such as a grandchild.<sup>28</sup> This definition excludes those LGBT parents who cannot establish a legal parent-child relationship.<sup>29</sup>



**Barrier:** Most LGBT families face additional federal income tax burdens because they cannot file jointly and cannot access child-related tax deductions and credits.

*Table 2* on the following page summarizes the impact of this inequitable treatment. In one analysis done by the Movement Advancement Project, an LGBT family with two children earning \$45,000 per year bears an extra annual tax burden of \$2,215 and loses more than \$37,000 over 12 years compared to a family with married heterosexual parents with two children in the same financial position.<sup>30</sup>

### Options for Welcoming Schools are Limited

Many LGBT families express concern about their children's school environment. Although efforts to prevent bullying of LGBT youth in schools have grown, less attention has been paid to the children of LGBT parents. A 2008 survey of LGBT parents and their school-age children found that 40% of students with LGBT parents reported being verbally harassed because of their families<sup>31</sup> and three-quarters reported hearing derogatory terms about LGBT people at school.<sup>32</sup> Prejudice and hostility can also come from school personnel. School forms that ask for a "mother" and a "father" may alienate and make children living in LGBT families feel invisible, as can curricula that ask children to talk about "moms and dads."



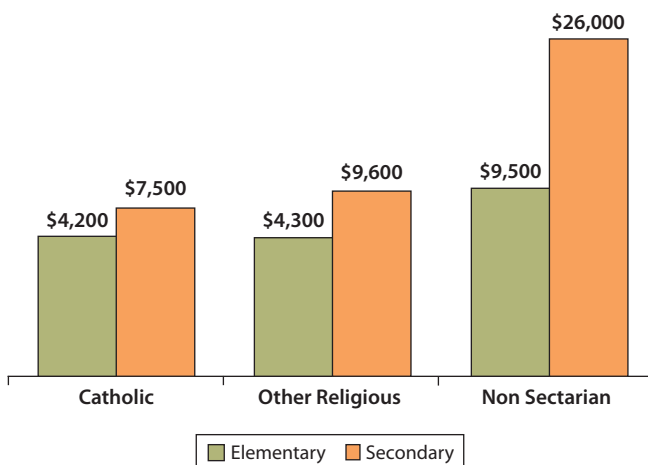
**Barrier:** Children with LGBT families can face bullying and harassment in school, and families may be unable to afford private alternatives.

Because of the high cost of many private school options (as shown in *Figure 9* on the next page), low-income LGBT families may have limited alternatives to public school, both because tuition costs are cost-prohibitive and because transportation may not be provided or affordable. Even if scholarships are available at private institutions, many private schools are religiously affiliated with exemptions that allow them to create specific admission criteria including refusing admission to children with gay parents.<sup>33</sup>

Table 2: Summary of Key Tax Credits and Deductions and Impact on LGBT Families

Credit/Deduction	How It Works	Net Impact on LGBT families
<b>Dependency Exemption</b>	Reduces taxable income by \$3,650 for the taxpayer, spouse, and each qualifying child or relative	<b>✗ Negative.</b> A legal parent must usually claim the exemption. While married heterosexual couples filing separately can maximize their tax reduction by having the higher-earning parent claim the exemption, same-sex couples with one non-recognized parent cannot exercise this option, often resulting in a higher tax burden.
<b>Child Tax Credit</b>	Reduces taxes due by \$1,000 for each qualifying child	<b>✗ Negative.</b> A legal parent must usually claim the credit; this means same-sex couples cannot optimize their taxes and often face a higher tax burden (see explanation under "Dependency Exemption").
<b>Earned Income Tax Credit</b>	Reduces taxes due but may also result in a refund for low-income families	<b>?</b> <b>Varies.</b> EITC is a means-tested tax credit based on income and household size. Only a legal parent can claim the credit and only that parent's income is considered when determining eligibility. Therefore, an LGBT family could be unfairly denied the EITC due to an inaccurate household count, OR could receive a credit that would be denied were the entire family recognized—depending on family circumstances.
<b>Child and Dependent Care Credit</b>	Reduces taxes due by up to \$1,050 (for one dependent) or \$2,100 (for two or more dependents) for the expenses associated with caring for a child or dependent	<b>✗ Negative.</b> A legal parent must usually claim the credit; this means same-sex couples cannot optimize their taxes and often face a higher tax burden (see explanation under "Dependency Exemption").
<b>Education Deductions</b>	Reduces taxable income by up to \$4,000 in tuition expenses for children or dependents	<b>✗ Negative.</b> A legal parent must usually claim the deduction; this means same-sex couples cannot optimize their taxes and often face a higher tax burden (see explanation under "Dependency Exemption").
<b>Adoption Credit</b>	Reduces taxes due by up to \$13,170 for adoption expenses	<b>✓ Positive.</b> Married heterosexual couples can only take one adoption credit for the household. By contrast, since the federal government does not recognize the relationships of same-sex couples, both LGBT parents can claim full adoption-related expenses (allowing two claims per household). Note, however, that LGBT families also generally face more adoption expenses since state law often does not recognize both parents as legal parents.
<b>Gift and Estate Tax Exemption</b>	Allows tax-free asset transfers	<b>✗ Negative.</b> Only transfers from legally-recognized spouses are tax-free, so same-sex couples pay a higher tax than other, similarly situated families. Asset transfers between non-recognized parents and their children (e.g., to pay for college) may also be subject to the gift tax.

Figure 9: Average Cost of Private School Tuition



Source: U.S. Department of Education, National Center for Education Statistics, Schools and Staffing Survey (SASS), "Private School Data File," 2007-08.

## Health Insurance – Buy Privately or Do Without

The majority of American workers obtain health insurance as an optional benefit through their employer or the employer of a family member.<sup>34</sup> Most employee benefits are regulated under the federal Employee Retirement Income Security Act (ERISA), which does not recognize same-sex couples because of the federal Defense of Marriage Act (DOMA). Therefore, most employers are not required to (although they may opt to) offer health benefits to the partners or non-legally recognized children of LGBT workers, even if those workers are legally married in their state.

Nearly all major companies now offer health insurance to workers and their families, yet just 54% of large firms electively offer health insurance to domestic partners of LGB workers.<sup>35</sup> Even when employers electively offer

extended health insurance benefits for same-sex partners and non-related children, families who use these benefits are taxed on their value.<sup>36</sup> Extra taxation of health benefits costs the average employee with domestic partner benefits \$1,069 more per year in taxes.<sup>37</sup>



*Barrier:* Many LGBT families have difficulty accessing health insurance as a family.

When LGBT workers cannot enroll family members in an employer-sponsored plan, they must obtain their own insurance or go without.<sup>38</sup> The average cost to purchase health insurance for a family of four on the private market is \$7,102 compared to \$3,997 for an employee's portion of the premiums of a plan through an employer. In other words, the average LGBT family would pay \$3,105 more each year than other families.<sup>39</sup>

Given the inconsistent extension of health insurance benefits and higher health insurance costs, LGBT adults have much lower rates of health insurance coverage than heterosexual adults.<sup>40</sup> Data show that same-sex couples are two to three times less likely to have health insurance than their heterosexual counterparts,<sup>41</sup> and researchers believe that children raised by LGBT parents are also less likely to have health insurance, particularly within LGBT families of color.

Key disparities between LGBT adults and the general population can be seen in access to care, the incidence of HIV/AIDS, and chronic physical conditions such as diabetes, obesity, and arthritis. Factors that give rise to these health disparities include high rates of stress due to systemic harassment and discrimination.

## How Social and Economic Burdens Harm Children

The lack of legal recognition for LGBT families creates significant social and economic costs. Children may be without legal ties because their families cannot afford legal fees necessary to secure them. Families face higher tax burdens and are denied child-related tax deductions and credits available to other families, leaving fewer financial resources to provide needed care. Because families cannot afford to pay privately, children may go without health insurance or have no option but to attend an unwelcoming school. These combined financial burdens put families and their children at risk and make them increasingly vulnerable during challenging

economic times or when they are faced with unexpected family tragedy like the death or disablement of a parent.

The next section focuses on LGBT families who are left with few alternatives but to seek the support of governmental programs designed to help them meet their children's basic needs and also shows how often LGBT families are turned away at their neediest time.

## NOWHERE TO TURN FOR STRUGGLING LGBT FAMILIES

Federal, state and local governments have established programs and policies to help families meet basic physical needs and raise healthy, well-adjusted children. These programs are particularly essential for families in crisis, low-income families or families living in poverty. Government-based economic protections include safety net programs as well as other programs and legal protections designed to provide economic stability when a parent dies or becomes disabled.

Yet government-based economic protections are applied unevenly based on family structure. Rather than tying qualification for benefits to family size or need, governments use inconsistent definitions of family to determine assistance, including whether or not parents are married or whether they have legal ties to their children. This uneven application of government benefits and other protections based on family structure affects not only LGBT families, but also many other types of families.

For LGBT families, some government programs and laws use a broad definition of "family" or "household" that looks at the actual interconnectedness of people (such as the extent to which individuals share economic resources like food or housing). Most programs and laws, however, use narrow definitions of family that refuse to recognize same-sex couples or non-legally related children. And, DOMA prevents the federal government from recognizing the marriages of same-sex couples, even if the couple is legally married under state law.

In addition to the economic burdens outlined in the last section, this lack of family recognition means laws designed to support families when a parent dies or becomes disabled often exclude LGBT families, and children fall through the safety net when government programs refuse to recognize their families.

On the next page, we discuss these two broad problems, and their specific implications, in turn.

## Broken Lifelines When an LGBT Parent Becomes Disabled or Dies

### Children Left with Nothing When a Loving Parent Dies



After spending twelve years together, Lucy and her partner, Carmen, split up. The couple's two children, Julia and Jack, continued to live with Lucy, who is the children's biological mother. Since Carmen couldn't get a second-

parent adoption in Georgia, Carmen had no legal connection to the couple's children. Without legal recognition of their relationship, Lucy and Carmen were left to figure out the details of their separation on their own. As Lucy remembers, "We had to try to put our children first and have integrity in the process. It was really hard because there were no legal protections for either of us." Carmen had no legal mechanism to remain connected to the children, and Lucy had no way to ensure she'd receive child support or alimony.

The two parents remained friendly, and Carmen stayed very close with the children, who called her "Cara." In September 2010, Carmen was diagnosed with lung cancer, and she died in March 2011. Lucy and her two children – children that Carmen loved and helped raise – were excluded from the funeral, and told that the funeral was for "family only." Not only has the family been emotionally devastated, they're also facing financial struggles as a result of Carmen's death. Even though Carmen continued to provide for her children after the break-up and through her illness, Carmen's will and life insurance were contested by her family and the inheritance was taken away from Julia and Jack and given to Carmen's parents.

The death or disablement of a parent is a devastating event for a child. Most families, however, can be assured that they will be supported by laws designed to help provide some economic stability in these circumstances. In states where their family ties are not legally recognized, LGBT families have no such protections. They can be denied Social Security benefits, denied or unfairly taxed on inheritance, and denied the ability to sue for wrongful death.

## Children Barred from Receiving Social Security Survivors and Disability Insurance Benefits

Although most people think of Social Security as a benefit program for older Americans, the Old-Age, Survivors and Disability Insurance (OASDI) program, administered by the Social Security Administration (SSA), provides more benefits to children than most other social programs.<sup>42</sup> In 2008, Social Security benefits lifted more than 1 million children out of poverty, many of whom were children of color.<sup>43</sup>



*Barrier:* Many children living in LGBT families cannot access Survivors and Disability Insurance Benefits if a parent becomes disabled or dies.

For most families, OASDI provides important financial lifelines for minor children and spouses when a parent who is entitled to Social Security benefits becomes disabled, dies or retires. Of the 4.3 million children receiving OASDI benefits, the majority of children (87%) receive benefits as a result of the disability or death of a parent.<sup>44</sup> For LGBT families, this lifeline is often unavailable and can catapult a family that is already facing tragedy into an economic tailspin. Here's why:

- Only a child with legal ties to the working parent is usually eligible for OASDI benefits when that parent dies or is disabled. Since many LGBT parents cannot establish legal ties to their children, if a non-legally recognized parent dies, his or her child will not receive OASDI benefits, even if the parent who died was the primary breadwinner for the family.
- Even when a legal parent dies, children with LGBT parents may have a hard time accessing benefits. For example, consider a married lesbian couple who used donor insemination, where both mothers were presumed legal parents at the baby's birth, but there is no adoption judgment or parentage judgment. If the non-biological mother is not listed as a parent on the child's birth certificate, and doesn't have other paperwork (like a court order) to prove the relationship, then current Social Security policy requires that all claims be referred to the Social Security Administration's regional counsel, which can result in additional delays or denials.<sup>45</sup>

- Unlike children of heterosexual married parents, children with legally married same-sex parents cannot receive OASDI benefits through a non-adoptive stepparent. While the government generally relies on a state's determination of a parent-child relationship to establish a child's right to benefits, the Social Security Administration has determined that children in LGBT families are not eligible for benefits through a non-adoptive stepparent, even if the parents are legally married in their state.<sup>46</sup>
- Finally, the OASDI program also provides benefits to surviving heterosexual spouses or ex-spouses to help care for a child. Because of DOMA, surviving same-sex spouses are denied these critically important benefits to help them care for their children when death or disability impacts their families.

### Family Left Destitute After Being Denied Social Security Survivor Benefits



In 1998, Nicolaj (Nic) Caracappa was born through donor insemination to New Jersey couple Eva Kadray and Camille Caracappa. Eva gave birth to Nic, who was given Camille's last name. Eva became a stay-at-home mom while Camille continued working as an oncology nurse. They consulted a lawyer about completing a second-parent adoption of Nic by Camille, but they wanted to wait until they had another child so they could adopt both children at the same time. Sadly, they never had a chance to bring another child home. When Nic was two years old, Camille left for work one day and never came home; she suffered a brain aneurysm and died the same day.

Eva applied for child Social Security survivor benefits for Nic. Those benefits—many thousands of dollars a year—are designed to compensate a child for the economic loss of a parent. The Social Security Administration denied Nic the benefits because Camille had not been Nic's legal parent. Had New Jersey recognized Camille as Nic's legal parent upon his birth, the two-year-old would not have been denied those benefits, and Nic's loss of a parent would not have been compounded by economic catastrophe—the loss of his family's entire income.

Adapted from Polikoff, "A Mother Should Not Have to Adopt Her Own Child," 266-7.

### Children Not Entitled to Inheritance and Other Property

When a person dies, property titled in that person's name becomes part of his estate. If that person created a legal document like a will or a trust before he died, then that document will generally guide the distributions of that person's property, including money in bank accounts, and other property like real estate and cars. If that person didn't create a legal document, which is common in as many as 65% of all deaths, then states use "intestacy law" to determine what to do with the property.<sup>47</sup>



*Barrier:* If an LGBT parent dies without a will, outdated laws can deny a child his inheritance.

Intestacy laws vary by state, but most use a narrow definition of family that excludes same-sex partners and children who lack legal ties to their parents. Since intestacy laws usually prioritize the surviving spouse of the person who died, and since same-sex couples cannot marry in most states, most same-sex partners cannot inherit money and property via these laws. If children do not have legal ties to the parent who has died, children also cannot usually inherit from them via intestacy laws, even if the parent provided for the children since birth. The net result is that if a non-recognized parent dies, all assets and inheritance can flow to distant relatives rather than the second parent or surviving children, leaving the family destitute.

### Surviving Family Members Cannot Sue for Wrongful Death

Surviving family members may be able to sue for the wrongful death of their relative when negligent or intentional actions caused a person's death. Some common causes of wrongful death can be car and motorcycle accidents, medical malpractice, workplace accidents, unsafe products, and crimes that result in death.



*Barrier:* Children living in LGBT families may be unable to sue if a parent dies a wrongful death.

In most states, the determination of which family members can sue for wrongful death follows the same lines as intestacy law—meaning that only legally-recognized family members have the right to sue. In these states, same-sex parents cannot sue for the

wrongful death of the other parent, and children who are not the legally-recognized children of the person who died cannot sue either. A few states have broadened the definition of “legal standing” to include any individuals who were financially dependent on the person who died. In these states, same-sex partners and children who lack legal ties to their parents may be able to sue.

## The Frayed Safety Net for Needy LGBT Families

### Judy Shares the Story of Tough Times for Their Wisconsin Family



Trina and I have been together in a committed relationship for 20 years, and I am the biological parent of our two children: Jason who is 14 years old and Sophie who is 8 years old. For our family, Trina (who is the non-biological

parent) was always the primary breadwinner until she was diagnosed with Multiple Sclerosis. When Trina became disabled, our family household income dropped to less than 1/3 of our previous income. When she could no longer work, we paid for the cost of her COBRA coverage, but we couldn't afford to continue to pay for insurance for me and the children. We finally applied for government help but our family was denied assistance. During the application process, a service worker turned us over to the “fraud” department because she didn't believe our children were conceived via artificial insemination.

I wish I could say that was the only time we've been treated unfairly because of our non-traditional status, but both Jason and Sophie continue to face bullying at school. The first time it happened, they did what they were supposed to do and told a teacher, but nothing was done. In Jason's words, “There is no point in saying anything because they don't do anything to stop it. It just makes things worse to talk.”

Even with all of our challenges, Jason and Sophie are wonderful children and the joy of our lives. When saying our blessings before meals, our sweet Sophie almost always says, “Thank you for blessing us with our wonderful, loving family.” I think that says it all.

– Judy G. from Wisconsin

## Programs Fall Short of Providing Economic Security for Children

Millions of American children are living in poverty today<sup>48</sup>—and despite stereotypes to the contrary, children being raised by same-sex couples are twice as likely to live in poverty as children living in heterosexual married households.<sup>49</sup> When LGBT families experience a crisis within their family and they have exhausted the few lifelines they have, they may be forced to turn to governmental safety net programs and services designed to help struggling families.

Although these programs aim to help families meet basic needs, advocates for children often point out that federal spending in this area is inadequate to do so effectively, particularly at a time when one out of five American children lives in poverty.<sup>50</sup> In 2010, the federal government spent \$445.2 billion (or 11% of total federal spending) on more than 100 programs benefiting children.<sup>51</sup> By comparison, in just two years the government spent approximately \$440 billion on tax expenditures benefiting corporations.<sup>52</sup> Federal spending on children, as a percent of the federal budget, has been reduced by 20% over the past 40 years.<sup>53</sup>

Although funding constraints and reduced spending are weakening safety net programs, such programs also fall short of providing true security for some children for a number of other reasons. Some of these reasons affect all families, and some are particularly pertinent to LGBT families. Challenges include:

- **Families may qualify but not receive assistance.** A large percentage of families who qualify for assistance do not actually receive it (for example, only 57% of families who qualify for food assistance receive it). LGBT families in particular may be unaware that they qualify, may be unclear about how to apply or in some circumstances may choose not to apply even when they need help in order to protect their families from hostility, stigma and prejudice.
- **Application requirements and income limits may exclude families who genuinely need help.** Once families do apply, application and eligibility requirements vary widely between programs. Even though qualification is tied to federal poverty guidelines, these guidelines underestimate the actual income required for a family to survive and meet basic needs. Low-income families of all configurations may have just slightly more income

## What Does It Mean to Live in Poverty?

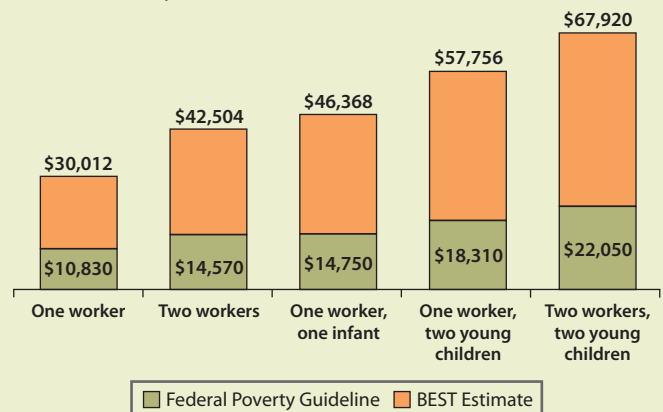
Individuals and families living in poverty are unable to achieve a minimum standard of living and may struggle to afford food, clothing and a safe place to live. When the government measures poverty rates or sets eligibility requirements for means-tested programs, it uses the federal poverty guidelines. Families with household incomes at or below the guidelines are considered to be “poor” or “living in poverty.” This is often what we mean when we use the term “low-income.”<sup>179</sup>

The federal poverty guidelines are set by the U.S. Department of Health and Human Services and are issued each year. With the exception of Alaska and Hawaii, the guidelines do not vary based on regional cost-of-living differences. Examinations of the cost of living in various parts of the country find that the poverty guidelines underestimate the income required for a family to survive and meet basic needs.

For example, the 2010 Basic Economic Security Tables (BEST) Index estimated the true annual costs to an average family for housing, utilities, food, transportation, child care, health care, taxes and minimal savings.<sup>180</sup> As shown, the federal poverty guideline is \$22,050 for a family of two adults and two children, but the BEST estimate for the true cost of living for that family is \$67,920. Therefore, if this family had an income at the federal poverty guideline, it would only allow this family to meet a third to a quarter of its actual needs. Similarly, a 2006 study showed that more than half of the families who received support from the federal government’s TANF program still struggled to purchase food and two-fifths were unable to pay for utilities.<sup>181</sup>

The government is working on a new measure of poverty that will take into consideration the costs of food, shelter, clothing and other necessities, as well as geographic adjustments based on what it takes to meet basic needs in various parts of the country. This supplemental poverty measure, which will be released by the U.S. Census Bureau alongside the traditional measure of poverty, will shed new light on the ability of families to meet their basic needs in areas from housing and child care to medical expenses.

**Cost of Making Ends Meet:  
Poverty Guidelines vs. BEST Estimates, 2010**



Source: Wider Opportunities for Women, “The Basic Economic Security Tables for the United States,” 2010.

than the guidelines for some programs, yet still be facing real financial difficulties or other family circumstances that make it a struggle for them to meet their families’ basic needs.

- **Even with assistance, families still live in poverty.** Even when families do receive benefits, the benefits are generally not enough to lift them out of poverty. Since many assistance programs provide minimal benefits that are time-limited, these programs are rarely enough to lift the entire family out of poverty and keep them above the poverty line. Even with unemployment rates at more than 9%, some states are cutting cash benefits for families and shortening the time limits for which families can access benefits.

For example, in South Carolina (one of the top states where LGBT families are raising children), cash benefits under the Temporary Assistance to Needy Families (TANF) program are now just 14% of the poverty level for a family of three.<sup>54</sup>

- **Archaic definitions of “family” mean that all families aren’t always treated equally.** Instead of tying qualification for benefits to demonstrated need for assistance, most of the government safety net programs treat families differently based on whether or not parents are married and/or parents have legal ties to their children. This can have a disparate impact on LGBT families and other families that do not fall into expected molds.

## How Means-Tested Safety Net Programs Treat LGBT Families Differently

Like all struggling families, LGBT families living in poverty often rely on means-tested government safety net programs for economic assistance. Generally speaking, means-tested programs are those that are limited to households, families, and individuals with low incomes. There are eight major ways in which means-tested programs provide assistance: cash assistance; medical benefits; food and nutrition; housing; education; jobs and training; energy assistance; and other services, such as child care.

In theory, means-tested programs base eligibility on a family’s resources and household size and set income

caps for recipients that are usually based on the federal poverty guidelines. These income caps usually increase with the number of people in a household because larger families have a higher cost of living. Likewise, the value of the safety net benefit generally increases as family size increases, with larger families receiving more in benefits.

In reality, means-tested programs are not strictly needs-based, but treat families differently depending on whether or not the parents are married and/or parents have legal ties to their children. *Table 3* below describes the most common means-tested programs, how these programs define family, and how LGBT families may be impacted. While the analysis is LGBT-specific,



















Table 3: How Means-Tested Safety Net Programs Treat LGBT Families Differently <sup>55</sup>			
Program & Average Amount of Assistance	About The Program	Definition of Family	How the Program’s Definition of Family Impacts LGBT Families
<p><b>Temporary Assistance for Needy Families (TANF)</b></p> <p><b>\$509 - \$763 monthly in cash</b></p>	<p></p> <ul style="list-style-type: none"> <li>TANF provides cash assistance, childcare, work training programs and other services for low-income families.</li> <li>The program serves 3.4 million children, who are primarily children of color (68%).</li> </ul> <p><i>Twice as many low-income lesbian and bisexual women with children are enrolled in TANF compared to one in ten heterosexual low-income women with children.</i></p>	<p></p> <p>Only legal parents of children (regardless of marital status) are considered part of the “assistance unit,” the group of people whose resources are counted when determining eligibility. TANF also requires single parent applicants to identify the other legal or biological parent as a means to assist with child support collection.</p>	<p></p> <ul style="list-style-type: none"> <li>Depending on family circumstances, could result in unfair denial of benefits/reduced benefits OR family could receive benefits it would be denied were the entire family recognized.</li> <li>Assumption that applicants can identify second legal or biological parent creates challenges for LGBT and single parents who adopt, use reproductive assistance, or who cannot otherwise identify a different-sex second parent.</li> <li>TANF also includes inflexible work requirements that can be particularly difficult for LGBT parents, who often face employment discrimination.</li> </ul>
<p><b>Food &amp; Nutrition Assistance (SNAP, School Lunch &amp; WIC)</b></p> <p><b>\$524 monthly in food assistance for family of 3</b></p>	<p></p> <ul style="list-style-type: none"> <li>Three federal programs offer millions of low-income “food-insecure” families financial assistance, school lunches and nutrition education: Supplemental Nutrition Assistance Program (SNAP), National School Lunch Program, Special Supplemental Nutrition Program for Women, Infants and Children (WIC).</li> </ul> <p><i>A recent California survey indicates that low-income LGBT families may be disproportionately food-insecure and poor LGB individuals with children may be almost twice as likely to receive SNAP benefits.</i></p>	<p></p> <p>Eligibility is based on household size and economic resources, defining households as a group of people who live, buy food, and make meals together, irrespective of whether applicants are related legally or by blood.</p>	<p></p> <ul style="list-style-type: none"> <li>Eligibility guidelines for food assistance programs reflect the genuine household configurations of all families, and can serve as models for more narrowly-defined programs.</li> <li>However, only citizens and permanent residents qualify, creating barriers for binational LGBT families because they cannot sponsor partners or non-legally related children for immigration.</li> </ul>

Table 3: How Means-Tested Safety Net Programs Treat LGBT Families Differently (Continued)

Program & Average Amount of Assistance	About The Program	Definition of Family	How the Program's Definition of Family Impacts LGBT Families
<b>Public Housing &amp; Housing Assistance (Public Housing &amp; Section 8 Vouchers)</b>  <b>\$641 monthly in housing vouchers</b>	 <ul style="list-style-type: none"> <li>Two federal programs (Public Housing Program and the Section 8 voucher program) help vulnerable people obtain safe and affordable housing through affordable rental housing or subsidized rent.</li> </ul>	 <p>The definition of family includes two or more persons who live together in a stable relationship and share resources, regardless of legal relationship.</p>	 <ul style="list-style-type: none"> <li>Definition of family covers many different living situations and accurately counts LGBT families.</li> <li>However, even when LGBT families qualify for assistance, discrimination and a lack of legal protections can make it difficult to secure stable housing, particularly for LGBT families of color, and families headed by transgender parents.</li> </ul>
<b>Medicaid &amp; Children's Health Insurance Program (CHIP)</b>  <b>\$133 monthly in health benefits</b>	 <ul style="list-style-type: none"> <li>Two programs provide free or low-cost health insurance to vulnerable children. Medicaid provides health-care coverage to poor older adults, people with disabilities, pregnant women, children and eligible families. CHIP specifically assists children in low-income families.</li> <li>Together, Medicaid and CHIP insure one-third of American children (26 million children).</li> </ul>	 <p>Only legal parents (regardless of marital status) are considered for income and household size calculations.</p>	 <ul style="list-style-type: none"> <li>Depending on family circumstances, could result in unfair denial of benefits/reduced benefits OR family could receive benefits it would be denied were the entire family recognized.</li> <li>States have flexibility to expand eligibility to recognize same-sex partners, yet few do so because they will not receive federal matching funds in these instances.</li> </ul>
<b>Supplemental Security Income (SSI)</b>  <b>\$499 monthly in cash assistance</b>	 <ul style="list-style-type: none"> <li>Provides stipends to low-income children and adults and who are blind or disabled (and low-income adults over age 65).</li> <li>In 2010, 1.2 million children and 6.4 million adults received SSI assistance based on blindness or disability.</li> </ul>	 <p>For minor applicants, only legal parents (regardless of marital status) are considered for income and household size calculations.</p>	 <ul style="list-style-type: none"> <li>Depending on family circumstances, could result in unfair denial of benefits/reduced benefits OR family could receive benefits it would be denied were the entire family recognized.</li> </ul>
<b>Childcare and Early Child Education Assistance (CCAP, Head Start/Early Head Start)</b>  <b>\$583 monthly in child care assistance</b>	 <ul style="list-style-type: none"> <li>Several government programs help low-income families obtain child care and early childhood education. CCAP programs help low-income families pay for childcare. Head Start and Early Head Start provide subsidized educational programming and childcare to preschool children.</li> <li>In 2010, 1.6 million children benefited monthly from CCAP and more than 904,000 children received Head Start services. The majority of children receiving assistance were children of color.</li> </ul>	 <p>Only considers the economic resources of parents or guardians who are related "by blood, marriage, or adoption." Due to DOMA, even same-sex couples who are married in their state will not be recognized as such for these federal programs.</p>	 <ul style="list-style-type: none"> <li>Depending on family circumstances, could result in unfair denial of benefits/reduced benefits OR family could receive benefits it would be denied were the entire family recognized.</li> </ul>

the principles are similar or the same for many other households (such as households headed by unmarried heterosexual couples and households in which a child is raised by an extended family member).

The remainder of this section further describes some specific barriers LGBT families face in accessing safety net programs.

### Eligibility Is Uncertain for Most LGBT Families

LGBT families face several hurdles during the eligibility determination process for most means-tested programs, primarily because definitions and processes do not accurately define or count their families.

#### *Inconsistent Definitions of Family Across Programs*

Most family-related government programs and laws use a narrow definition of family that do not accurately reflect LGBT and other families. For example, a program may refuse to recognize the same-sex partner of an LGBT parent when counting household size or determining benefits, even if the couple is married. Additionally, many safety net programs require parents to have a legal parent-child relationship in order to receive benefits intended to help their children, even if state law makes this impossible for LGBT parents.



**Barrier:** LGBT families are treated inconsistently by governmental safety net programs.

In most federal and state benefit programs only legally-recognized parents can apply for benefits on behalf of the child or family. Exceptions may occur when there is no legal parent in the household (for instance in families where a blood relative is caring for a child) or where the only legal parent in the household is disabled. Under these circumstances, a blood relative or a non-adoptive legally-recognized stepparent may be able to apply. Because these programs rely on state family law and policies to determine these requirements, the exact definitions and exceptions vary from state to state. And, because LGBT parents often cannot secure legal ties to their children, most LGBT families are limited in who can apply for benefits for the child and family.

Two federally-funded programs have broader definitions of what constitutes a family. Federal housing programs like the Public Housing Program and the Section 8 Voucher Program look at who lives together to define a

### A California Mom Can't Get Help for Her Family of Four



We are a blended family that sometimes worries about how to put food on the table for our kids. We get no assistance because although I support four people on my income, they will only count three, our kids and me, so we do not fit into their mold of who needs help. The kids are not secure legally if something ever happens to me and that scares me. I wish for one day that I didn't have to worry and could know my kids will stay with their other mom when I part this earth.

– Lisa T. in California

household, while nutrition assistance programs like the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) look at who shares meals. Even so, most these programs have provisions that limit applicants to only legal citizen or eligible permanent residents. Given that LGBT families are more likely to be binational than married heterosexual families, this can also make it harder for families to apply for benefits.

The most broadly defined program is the National School Lunch Program which provides free or reduced-price meals to low-income students. Regardless of legal status or immigration status of family members and children, the family can apply for a child to receive services and needs only to meet income guidelines.

#### *Incorrect Count of Household Members*

The majority of safety net programs use a narrow definition of family that is tied to marital status and to the legal relationship between parents and their children. The result is that the assistance available for LGBT and other families often does not accurately reflect their household size or economic resources. With a few exceptions, government programs undercount LGBT families. For example, a same-sex couple with two children will often be counted as a household of three (one parent and two children) rather than a household of four (two parents and two children). This is because the federal government does not recognize the relationship of the same-sex couple and will only recognize the

second parent if that parent is a legal parent of the children. This inaccurate counting of household size affects program eligibility and benefit levels.

### *Income Calculated Differently for Eligibility for Each Program*

Means-tested programs usually have a maximum income/asset cap above which households are not eligible for assistance. This cap varies based on household size; because expenses generally increase for larger families, means-tested programs usually allow larger families to have more income and still qualify

for help. Additionally, larger families generally receive a larger benefit amount. However, an accurate income determination means adding up the total amount of income earned by every member of the household; larger families therefore also often have higher incomes.

How this all impacts LGBT families depends on their unique family circumstance. As shown in the sidebar, an undercounting of an LGBT family may enable a low-income family to qualify for assistance—or may result in a denial of needed assistance or smaller benefit amount. Benefit eligibility tied to the government's undercounting of households can also create economic

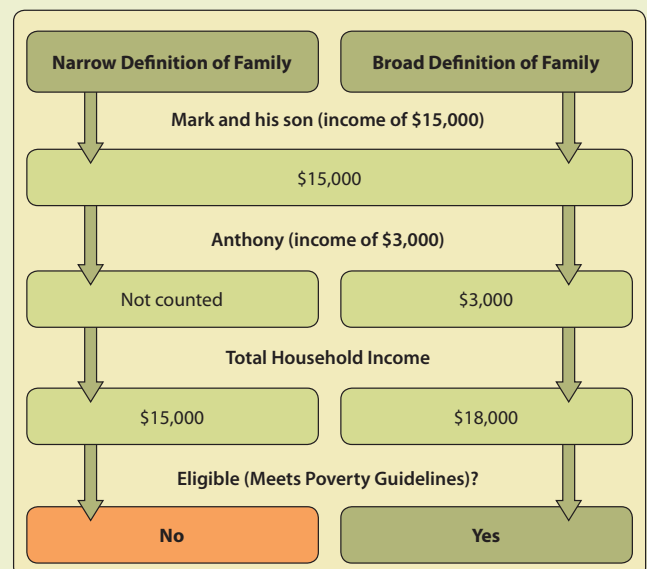
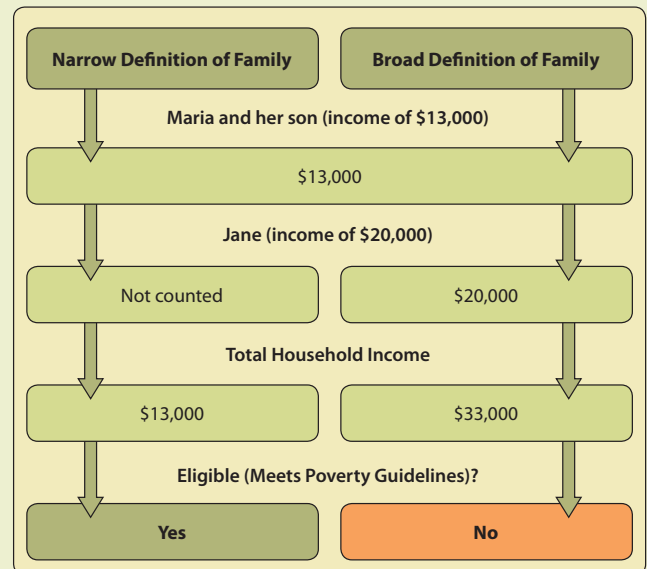
## How Definitions of Family Affect Eligibility for Safety Net Programs: Two Family Stories

### A Narrow Family Definition Benefits Jane, Maria and Stuart

Maria (who earns \$13,000) and Jane (who earns \$20,000) are raising their son, Stuart. Maria is Stuart's only legal parent. A government program using a narrow definition of family would exclude Jane and her income in calculating eligibility. Thus, the family would be considered a two-person household (Maria and Stuart) with an income of \$13,000. This allows the family to qualify for assistance. However, a government program using a broad definition of family would include Jane and consider theirs a three-person household with a combined income of \$33,000, thus disqualifying them for assistance. This particular household would lose benefits should the government recognize the whole family.

### A Broad Family Definition Benefits Anthony, Mark and Lukas

Mark (who earns \$15,000) and Anthony (who earns \$3,000) live with their son, Lukas. Mark is Lukas's only legal parent. A government program using a narrow definition of family would exclude Anthony and his income in the family's application for assistance. As a two-person household earning \$15,000, Mark and Lukas would have income too high to qualify for the program. However, a government program using a broad definition of family would recognize Anthony. Their three-person household with a combined income of \$18,000 would therefore qualify for assistance. In other words, this particular household would be denied assistance they would otherwise receive because of a narrow definition of family.



disincentives that discourage low-income LGBT couples from marrying (in states where they can) or that discourage non-recognized parents from establishing legal ties to their children. These disincentives are sometimes referred to cumulatively as a “marriage penalty” and often impact not only LGBT families, but also unmarried heterosexual families.

An additional challenge for LGBT families is that applications (particularly consolidated applications for multiple programs) may ask questions about income for everyone who lives at the same address, rather than clarifying who is or is not considered part of the household for each program.<sup>56</sup> For a program like TANF, including a non-legally related individual as part of the household means the application was filled out incorrectly. However, programs like SNAP use a broader definition of household and actually do want to count the income of everyone who lives at the same address. This makes it very difficult for LGBT families to accurately fill out forms.

In sum, processes for eligibility and assistance level determinations for many means-tested programs are unclear for LGBT families. Additionally, the inconsistent treatment of LGBT families means that assistance may be provided or denied based on how an applicant defines their household members and income instead of based on the family’s need.

### Once Enrolled, LGBT Families Still Face Undue Unique Challenges

A low-income LGBT family trying to access safety net programs must navigate complex and confusing application and eligibility processes to even qualify for assistance. Unfortunately, with most programs, they still face additional barriers once they are enrolled because of program requirements that pose specific challenges for LGBT families. These challenges are compounded by a lack of guidance to frontline workers in local and state agencies about how to assist enrolled LGBT families.

Below, we have highlighted just a few of these program requirements that can be the most difficult for low-income LGBT families to navigate.

#### TANF’s Requirements Don’t Make Sense for LGBT Families

Temporary Assistance for Needy Families (TANF) provides cash assistance, child care, job training programs and other services to low-income families with children.<sup>57</sup>

### California Adjusts to the Evolving Reality of Today’s Families



In 2005, the State of California pursued the non-biological lesbian mother of a child whose biological mother had applied for assistance through CalWorks (California’s TANF program) after the couple split up. In this case, the applying biological mother could not name a legal father nor could she name a sperm donor, as the donor had signed a contract with the clinic relinquishing all parental rights and obligations. The mother therefore named her ex-partner who had been the primary economic provider while the couple had been together. Appropriately, the county then pursued the non-biological mother to obtain child support payments.

Adapted from Anna Marie Smith, “Reproductive Technology, Family Law and the Post-Welfare State: The California Same-Sex Parents’ Rights’ Victories’ of 2005,” Signs 34:4, 2009.

**Paternity and Collection When There Is No Father.** To ensure that children are financially supported by both parents, the Temporary Assistance for Needy Families program requires that applicants (most often women) identify the other legal or biological parent of a child (most often the noncustodial father). The state then locates the second parent, conducts a DNA test to confirm paternity, legally establishes paternity (if necessary) and seeks child support payments from this parent. Applicants who do not cooperate with child support investigations, including the establishment of paternity, may receive reduced assistance or lose their assistance entirely.

TANF’s focus on paternity and collection and the implicit assumption that there is an identifiable, and usually biological, second parent creates challenges for several categories of parents, including: mothers who do not know the father of their children, single mothers who have had children using reproductive assistance or through adoption, and LGBT parents who have created families using reproductive assistance. While caseworkers are given leeway in identifying the parent obligated to pay child support, caseworkers can be confused by, or insensitive to, LGBT parents who cannot identify a father or who identify a same-sex partner as the second parent. Similar concerns arise for transgender parents who may need to disclose their birth sex in order to identify a noncustodial or absent parent.

**Work Requirements Lack Sensitivity, Particularly for Transgender Parents.** TANF also includes often stringent and inflexible work requirements that can pose additional challenges for LGBT parents. For example, as part of their job training, TANF recipients may be sent to an “interview skills” course and instructed on how to dress. Caseworkers may not be sensitive to the issues this raises for transgender parents, whose gender presentation may not match what is listed on legal paperwork such as a driver’s license or Social Security card.<sup>59</sup> Given the lack of employment protections in most states, LGBT parents can have a harder time finding and keeping employment. If they can find work, they may be forced to take or keep jobs in workplaces where they are verbally harassed or physically unsafe.

**Marriage Promotion Programs Ignore the Realities of LGBT Families.** TANF’s marriage promotion programs ignore the experiences and realities of many LGBT families. Originally, TANF focused on ensuring that noncustodial parents, generally fathers, paid child support. However, in 2005, Congress allocated \$750 million over five years for

programs that provide marriage and relationship skills, as well as programs to teach parenting skills to fathers. Funding for marriage promotion programs continues despite a 2010 evaluation that found they had no effect on the likelihood of couples staying together or getting married or on the quality of their relationships.<sup>60</sup> While TANF regulations do not explicitly prohibit LGBT parents from marriage promotion programs, the applicability of these programs to LGBT families is doubtful, particularly since the federal Defense of Marriage Act (DOMA), which was also passed in 1996, prevents recognition of same-sex couples.

### **Public Housing Programs Treat LGBT Families Equally but Discrimination Shuts the Door**

Two primary federal programs help low-income people obtain safe and affordable housing: the Public Housing Program and the Section 8 Voucher program.<sup>61</sup> The U.S. Department of Housing and Urban Development (HUD) provides most of the funding for these programs, which are administered locally by public housing agencies. For both programs, qualifying families receive subsidized rent or

## **HHS Defers to States on Paternity Establishment for Lesbian Couples**



After TANF was first implemented as part of welfare reform efforts in 1996, the Office of Child Support Enforcement at the U.S. Department of Health and Human Services issued an action transmittal to regional Child Support Administrators with answers to questions about how to implement the new provisions of the law that authorizes TANF.<sup>58</sup>

The section on “Paternity Establishment” includes the following question: *“What is HHS’s position re: paternity establishment provisions (for child support enforcement) in cases where a lesbian couple has a child and does not want to list a ‘father’?”*

An excerpt from the Office of Child Support Enforcement’s response is provided below:

“If a lesbian couple has adopted a child, and there are no paternal rights or any support obligation on behalf of a father which can be enforced under State law, then it is reasonably clear that paternity establishment would not be required. Similarly, if one partner had been artificially inseminated and the identity of the father was unknown and could not be determined, it would be impossible to establish paternity. In the latter situation there might or might not be legally enforceable rights against the mother’s partner. If there was an adoption recognized under State law, both adoptive parents would presumably be liable. In either event, State law would govern in determining what support rights existed and were enforceable. If the mother could identify the father and paternity could be established, she would be required to cooperate in establishing paternity.”

Since TANF is implemented at the state level, the memorandum rightfully notes that State law is determinative. Unfortunately, states (regardless of whether they legally recognize same-sex couples) do not include this guidance into the actual policy manuals that are used by frontline workers, so the likelihood that this guidance is actually being applied uniformly is quite low. Without guidance, a caseworker may need to get supervisory clarification which could delay processing or even worse, institute penalties for non-cooperation against an LGBT parent who is not able to produce evidence of a different-sex second parent.

rental assistance but are still required to pay some portion of the rental cost, usually 30% of their monthly income.

HUD uses a broad definition of family for the purposes of granting housing assistance. It encompasses “two or more persons related by blood, marriage, adoption or other operation of law (such as guardianship or a custody order), or two or more persons who are not so related but who live together in a stable relationship and share resources.”<sup>62</sup> This definition of family covers many different living situations and accurately counts LGBT families.

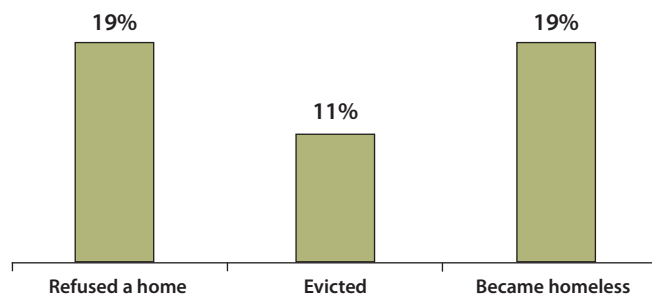
However, LGBT families receiving Section 8 Housing Choice Vouchers must still find a place to live, and many voucher recipients (especially those who are African American or Latino/a) report that landlords refuse to rent to them.<sup>63</sup> Similarly, one study (not specific to Section 8 vouchers) showed that same-sex couples encountered discrimination in 27% of cases where they sought to rent or buy a home.<sup>64</sup> Another study showed that 19% of transgender respondents had been refused a home or apartment because of their gender identity or expression (see *Figure 10*). Documented race-based discrimination in housing means that LGBT families of color likely face an even greater challenge when trying to use housing vouchers.

In addition to hurdles in the private housing market, LGBT applicants also may face discrimination or hostile treatment from other residents. Experiences of discrimination are most likely in communities that lack fair housing laws prohibiting discrimination based on sexual orientation and gender identity. Currently 15 states and D.C. have such laws,<sup>65</sup> while another six states prohibit discrimination based on sexual orientation only.<sup>66</sup> The federal Fair Housing Act prohibits housing discrimination based on sex and gender (among other things) but does not include protections for sexual orientation, gender identity or marital status. It may be possible, however, for individuals who were discriminated against because of their gender identity to make a claim of sex/gender discrimination. In early 2011, HUD distributed fliers to educate the LGBT community about this protection (see flyer at left).

### LGBT Families May Qualify But Not Apply

Even when low-income LGBT families are eligible for governmental programs, they may never apply. Although most safety net programs are targeted toward poor families, rarely do they specifically target low-income LGBT families in their brochures, on their

**Figure 10: Percent of Transgender Americans Reporting Housing Discrimination**



Source: Jaime M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman and Mara Keisling, “Injustice At Every Turn: A Report of the National Transgender Discrimination Survey,” National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.



Fliers released by HUD in 2010 to educate LGBT Americans about housing discrimination.

websites, or in their program descriptions. This lack of targeting, combined with a lack of broad outreach by LGBT organizations to LGBT families of color and LGBT families in rural areas, means that low-income LGBT families may be disconnected from both low-income resources and LGBT resources. As a result, LGBT parents may not even know that they could receive support.

Often, LGBT families, including children themselves, feel pressure to be a model family, surpassing standards to which all other families are held.<sup>67</sup> When facing difficult times, they may worry that others will form judgments about all LGBT people based on their individual family's

problems or challenges.<sup>68</sup> For instance, even if they qualify for nutrition assistance, the potential embarrassment that they could face in the grocery store as they use assistance could keep them from ever applying.

While many children with LGBT parents live in communities that welcome and embrace them, for others the discrimination and social stigma can create an unwelcoming, or even hostile, environment. Applications for many means-tested programs require in-person eligibility interviews, which for many families means exposing themselves, and potentially their children, to inappropriate questions about their families (e.g. “Why don’t you have a Daddy?”). Discrimination against families with a transgender parent can be a particular problem. The National Center for Transgender Equality notes that if a transgender person fills out assistance paperwork with a gender other than that assigned to them at birth, inconsistencies between the paperwork and gender attached to their Social Security number may slow the process down significantly or trigger disqualification.

In many small towns, an LGBT family may be the only one in town, and to protect their children and families, parents may not be public about their family structures. Applying for safety net programs is an invasive process that requires families to disclose details that may not be widely known. Although most states have now developed consolidated forms for applying for multiple programs at once, the result is a lengthy application form that asks applicants to reveal myriad financial and personal details about their families, as well as everyone who lives in their household. For many families, the potential impact of revealing their family structure to agency workers could put them and their children in jeopardy.

## How Lack of Access to Governmental Protections Harms Children

When a parent dies or becomes disabled, children in LGBT families can be denied their inheritance, survivor and disability benefits, and the ability to sue for wrongful death. When their families are denied safety net supports, their families may struggle to find safe housing. They may be denied access to health insurance. And, temporary cash assistance designed to help families through emergency times may be reduced or unavailable, making it difficult for families to make ends meet, and essentially leaving them with no place left to turn. Even when LGBT families do qualify for assistance, various barriers may keep them from applying.

The final section of this report outlines a number of policy recommendations that could protect children in LGBT families by providing them with legal ties to both of their parents, eliminating the social and economic burdens that they face, and ensuring that children’s basic needs are met if their families face difficult economic times.

## CONCLUSION AND RECOMMENDATIONS

Archaic and discriminatory laws ignore the modern realities of families living in America today and make it difficult for many children to have legal connections to a parent who cares for them. The lack of ties between parents and children has legal, emotional and economic consequences. It imposes costs that compound over time and leaves families, and their children, at economic risk.

Because the majority of states do not legally recognize same-sex marriage or allow both parents in LGBT families to create legal ties through adoption, children living in LGBT families often have no legal ties to one of the parents who provides care for them. Even when legal mechanisms for protecting the family are available, they are costly and may be out of reach for many families.

LGBT families face higher tax burdens, and are denied child-related tax deductions and credits available to other families, leaving fewer financial resources to provide needed care. Because families cannot afford to pay privately for expensive programs and services, children may go without health insurance or have no option but to attend an unwelcoming school.

Financial burdens put LGBT families and their children at risk, and make them increasingly vulnerable during challenging economic times or when they are faced with unexpected family tragedy. Under these circumstances, LGBT families may be left with few alternatives but to seek the support of governmental safety net programs to help them meet their children’s basic needs or laws designed to provide economic stability when a parent dies or is disabled.

Rather than tying qualification for benefits to need, federal and state laws and policies use inconsistent definitions of family to determine assistance, including whether or not parents are married or whether they have legal ties to their children. As a result, broken governmental lifelines and a frayed safety net can turn away children living in LGBT families at the very time that they most need support. This need not be the case.

## All Children Matter: Bridging Policy and Practice

LGBT families should not be marginalized or excluded from the vital support networks that exist to ensure that families can meet their children's basic needs. The comprehensive report "All Children Matter: How Legal and Social Inequalities Hurt LGBT Families," details more than 100 federal, state, and local policy recommendations designed to benefit children living in LGBT families.<sup>69</sup> A summary of the recommendations that pertain to ensuring economic security for children with LGBT families follows. Additionally, this companion report provides a number of practical steps that governmental agencies, community-based organizations, advocates, and funders can take to assist and support LGBT families in crisis, low-income LGBT families, and LGBT families living in poverty.

### Broad Federal & State Policy Recommendations to Support LGBT Families

Many of the challenges for LGBT families seeking access to safety net services stem from the lack of legal recognition of LGBT parents. Below are broad recommendations that would strengthen legal ties for all LGBT families – recommendations that can both reduce the economic inequities that LGBT families face, and support eligibility for safety net programs if needed.

#### *Legalize marriage for same-sex couples.*

Marriage for same-sex couples would help strengthen legal ties of the entire family, including those between a child's parents and between the child and his or her parents. Married LGBT parents would be recognized as legal parents upon a child's birth, and would also have access to joint and stepparent adoption.

#### *Federally recognize marriage for same-sex couples.*

DOMA currently prevents federal recognition of same-sex couples. If same-sex couples who were married, in a civil union, or in a domestic partnership were recognized as such by the federal government, LGBT families could accurately represent themselves for the purposes of tax credits and deductions, Social Security protections, safety net programs, and employer health insurance.

#### *Legally recognize families by passing comprehensive parental recognition laws at the state level to fully protect children in LGBT families.*

State parentage and adoption statutes should allow joint adoption by LGBT parents, recognize LGBT parents using assisted reproduction in the same manner as heterosexual parents, and provide avenues such as second-parent adoption and *de facto* parenting to allow children to gain full legal ties to their parents.

#### *Revise the Internal Revenue Service (IRS) tax code to provide equitable treatment for LGBT families.*

The IRS should create a "permanent partner" designation to identify a person who would be treated as a spouse for tax code purposes. The IRS should allow not just legal parents but also *de facto* parents to claim a "qualifying child" on their tax filing.

#### *Provide pathways to immigration and citizenship for binational LGBT families.*

Pass legislation such as the federal Uniting American Families Act (UAFSA) to add "permanent partner" to the list of family members who can sponsor a foreign national for immigration.

#### *Advance equal access to health insurance and care.*

Eliminate unfair taxation on domestic partner benefits and revise ERISA to include same-sex partners and non-legally recognized children of workers.

#### *Modernize archaic wrongful death and intestacy statutes.*

States should change inheritance laws to treat LGBT permanent partners as spouses, and ensure children can inherit from a *de facto* parent when the parent dies without a will. States should also permit the filing of a wrongful death suit by any individual who can show economic dependence on a deceased person.

## Policy Recommendations for Government Lifeline and Safety Net Programs for LGBT Families

LGBT families attempting to access safety net supports for their children shouldn't have to navigate a maze of definitions – a maze which results in some families being accurately included in some programs but not in others. Below are targeted recommendations designed to simplify access and ensure that programs are truly being provided based on need, not based on archaic definitions of family.

### Define “family” broadly across federal government programs.

Depending on the specifics of the safety net program, several options exist to expand the current definition of family, including:

- Creating a unique definition of “domestic partner” for federal purposes that would allow partners in same-sex couples to access safety net assistance in the same way as spouses (for those programs that recognize stepparents, one domestic partner could be eligible for assistance through the other domestic partner without the need for an adoption)<sup>70</sup>
- Using the definition of *in loco parentis* to allow those who act as parents of a child to be considered parents for the purposes of these programs<sup>71</sup>
- Using the definition of family currently used by the U.S. Department of Housing and Urban Development: “two or more persons who are not so related but who live together in a stable relationship and share resources”<sup>72</sup>
- Using the definition of family used by the U.S. Department of Agriculture for food and nutrition assistance: “a group of people living together who buy food and make meals together”<sup>73</sup>
- Using the definition of family member and immediate relative employed by the federal Office of Personnel Management for the purpose of determining eligibility for emergency leave for federal employees: “any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship”<sup>74</sup>

### Revise requirements, definitions and priorities for TANF to reflect today's families.

Definitions of who is considered part of the “assistance unit” for TANF should be broadened to include any adult who lives with a child and provides economic and emotional support to that child. Instead of seeking a biological father, parents applying for assistance should be asked if there is another parent responsible for the child's well-being and support (this change would ensure that TANF reflects the various ways in which children actually come into families, including adoption, intentional single parenthood and assisted reproduction). Paternity and child support enforcement processes for LGBT families applying for TANF should also be documented in policy manuals so that policies and procedures are clear and do not result in delays for applying families.

### Ensure equal access for LGBT families to food and nutrition assistance.

While current food and nutrition assistance eligibility rules allow diverse families to be accurately counted within the household, the U.S. Department of Agriculture (USDA) should issue clarifications to agency staff to ensure that eligible LGBT families are not turned away when applying for assistance. The USDA should also broaden policies to prohibit discrimination based on family status, sexual orientation and gender identity, and it should be expanded to cover food assistance programs.<sup>75</sup> The USDA should also issue a clarification indicating that those who function as parents (*de facto* parents) are exempted from the three-month work requirement associated with receiving SNAP.<sup>76</sup>

### Increase access to public housing and housing assistance.

Prioritize the implementation of the federal Department of Housing and Urban Development (HUD) 2011 rule clarifying that the current definition of family includes LGBT families. The January 2011 proposed rule clarifies that family includes LGBT families, and that adults who are standing *in loco parentis* should be considered part of a household—as should the children of domestic partners. HUD should also ensure that local housing agencies should make every effort to determine who is taking care of a child, ensuring that individuals who provide shelter and other basic necessities to a child can claim that child as a dependent for the purposes of housing assistance. This clarification would help not

only LGBT parents who may not have legal custody of their children, but also other family members who may be taking care of children but who lack the ability to establish legal custody.

### **Revise Medicaid and Children's Health Insurance Program (CHIP) to be inclusive of LGBT families.**

The definition of family should include same-sex partners and permanent partners, as well as any children for whom an adult is standing *in loco parentis* to allow adults who are providing substantially for a child to be counted for eligibility purposes. States should expand eligibility for Medicaid and CHIP to increase the number of children served and take steps to treat same-sex couples as married for the purposes of determining eligibility. For example, Massachusetts passed legislation in 2008 to treat married same-sex couples as married for the purposes of Medicaid eligibility. When the State of New York began recognizing the out-of-state marriages of same-sex couples (also in 2008), the state's Office of Health Insurance Programs issued a memorandum instructing agency staff to ensure that same-sex spouses were considered for the purposes of determining Medicaid eligibility.

### **Revise the federal Social Security Act to broaden the definition of spouse and child to include diverse families in the sections on Supplemental Security Income (SSI).**

The Social Security Administration should update SSI eligibility criteria to include same-sex spouses, domestic partners or permanent partners when an adult applies for assistance. The eligibility criteria should also be updated to ensure that *de facto* parents are considered part of the household when a child applies for SSI and allow applicants to identify themselves as the child, stepchild or adopted child of a person *in loco parentis* as defined in the recent FMLA interpretation.

### **Provide equitable economic protections when a parent dies or is disabled.**

Revise Social Security Survivors and Disability Insurance (OASDI) regulations to recognize a child's dependence on a non-legally recognized parent or adult. The Social Security Administration (SSA) should allow a child to claim benefits upon the death or disability of an adult who acts as a parent in the child's life, regardless of the legal relationship between the child and the parent. SSA should also provide parental benefits to adults who

will be taking care of the children (under 16) of deceased workers, including surviving same-sex spouses, domestic partners or permanent partners of a child's legal or *de facto* parents. This would not only permit the surviving partner (or former partner) of the worker to access important financial resources, but would also recognize the variety of individuals who may care for a child in the event of a parent's death, as well as the financial challenges that come with providing for a child.

### **Broaden the definition of family for child care and early assistance programs.**

Child care assistance programs, Early Head Start, and Head Start programs only recognize the resources of parents or guardians who are related "by blood, marriage, or adoption." This definition should be expanding to include *de facto* parents.

## **Recommendations for Community-Based Organizations, Advocates and Funders**

The suggestions below complement the policy recommendations above, but are aimed at community-based service providers, advocates and those who provide them with funding. The recommendations focus on providing important protections and changes designed to assist low-income LGBT families (some changes will benefit other families as well).

These recommendations are not intended to be exhaustive, but instead are meant to spur and foster additional conversations within and among community-based organizations and funders at local, regional and national levels about how best to support children living in low-income LGBT families.

### **For Community-Based Organizations and Advocates**

#### **WITHIN YOUR OWN ORGANIZATIONS**

- Increase awareness of the issues faced by low-income LGBT families by designating an "in-house" staff person or team who stays current on the issues they face, and who can act as a resource for others, both within and outside the organization.
- Reduce isolation for LGBT low-income families by creating culturally-competent targeted outreach programs for low-income LGBT families, including LGBT families of color and LGBT families living in rural communities.

- Facilitate safety net program eligibility for families or partner with another organization that does so. For example, in California, the SCHIP program developed a training process that certifies staff from other entities, such as schools and community-based organizations, as “application assistants.”<sup>77</sup>
- Document the services provided to, and unmet needs of, low-income LGBT families as part of your program outcomes measurement and strategic planning processes.
- Design general program offerings to be inclusive of, and sensitive to, low-income LGBT families, including LGBT people of color. Expand education and cultural competency training to those serving low-income LGBT families, including adoption agencies, child welfare departments, judges and law students, government agency workers, health service providers, schools, and faith communities.

#### **WORKING WITH LEGAL AND FINANCIAL SERVICES**

- Host free legal/tax clinics and/or informational events to help low-income LGBT families understand their legal and financial vulnerabilities and take proactive steps to avoid crises.
- Partner with legal services or other organizations to create state-specific guidebooks for low-income LGBT families and their advocates to help them understand, access and navigate safety net programs successfully.<sup>78</sup>
- Identify local attorneys and CPAs who are willing to provide pro-bono or sliding fee legal and tax-related services to low-income LGBT families who are experiencing crisis and need assistance.

#### **WORKING WITH GOVERNMENTAL AGENCIES PROVIDING SAFETY NET SERVICES**

- Ensure that information and referral mechanisms are in place to quickly refer low-income LGBT families or LGBT families experiencing economic crises to agencies that provide safety net supports for low-income families.
- Collaborate with agencies to create training programs for frontline and supervisory workers designed to ensure that low-income LGBT families are treated with respect, receive culturally-appropriate services and are free from discrimination. (This companion report may be a useful guide to developing some of the core training elements).

- Help ensure consistent treatment of low-income LGBT families and streamline application processing by advocating for the supplementation of policy and procedure manuals that guide the processing of applications, determinations of eligibility, and implementation of program requirements with specific guidance for common situations faced by LGBT families.
- Ensure that frontline workers and supervisors know about your in-house staff or team that specializes in LGBT issues and encourage them to consult with you when complex situations arise.

#### **WORKING WITH SCHOOL DISTRICTS**

- Expand “welcoming schools” training programs to include specific challenges and supports needed by low-income LGBT families so that teachers and administrators can encourage families to access services and programs that can support their children.
- Create and provide targeted training for school guidance counselors and social workers on safety net services for low-income LGBT families.

#### **For Funders**

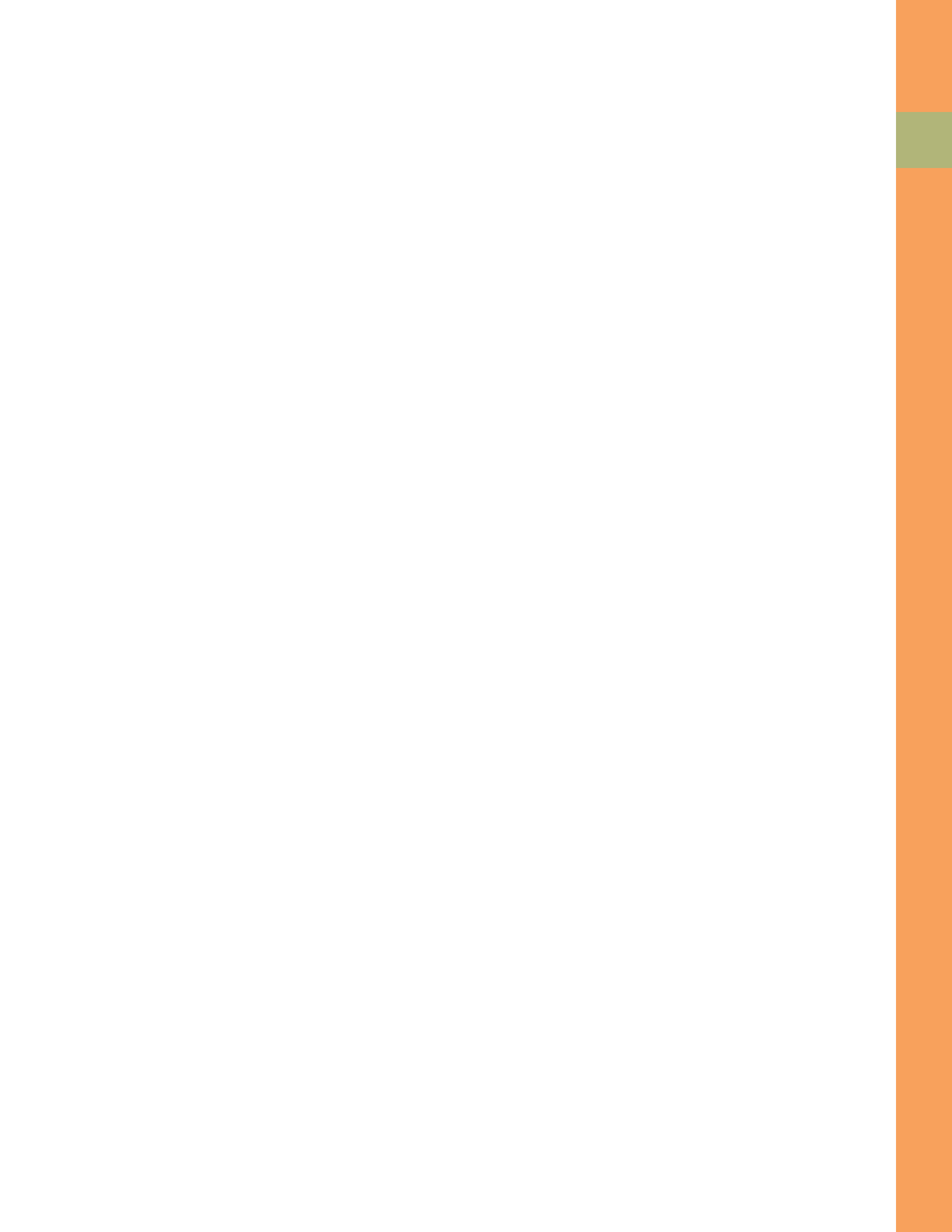
- Act as conveners for grantees and/or other funders to highlight the challenges addressed by low-income LGBT families and to craft a prioritized menu of collaborative funding opportunities.
- Amend proposal requirements to include LGBT families as one of the targeted populations for programs serving low-income children and families.
- Prioritize funding requests for programs and projects serving low-income LGBT families.
- Invest in research and pilot projects for initiatives like those identified above.
- Collaborate with public and private organizations to provide project-based funding for the development of training and outreach materials.
- Require grantees who serve low-income families to document outreach efforts and service levels for low-income LGBT families in addition to other vulnerable populations.

## END NOTES AND REFERENCES

Note: References to the “Full Report” in these endnotes are references to the detailed recommendations that can be found in: Movement Advancement Project, Family Equality Council and Center for American Progress, “All Children Matter: How Legal and Social Inequalities Hurt LGBT Families,” October 2011.

- <sup>1</sup> Rose M. Kreider and Diana B. Elliott, “The Complex Living Arrangements of Children and Their Unmarried Parents,” Population Association of America, Poster Presentation, May 2, 2009.
- <sup>2</sup> Movement Advancement Project, Family Equality Council and Center for American Progress, “All Children Matter: How Legal and Social Inequalities Hurt LGBT Families,” October 2011, pp 118-119.
- <sup>3</sup> U.S. Census Bureau, Table 1. Household Characteristics of Opposite-Sex and Same-sex Couple Households: ACS 2010, <http://www.census.gov/hhes/samesex/files/ssex-tables-2010.xls>.
- <sup>4</sup> Gary J. Gates, M.V. Lee Badgett, Jennifer Ehrle Macomber and Kate Chambers, “Adoption and Foster Care by Gay and Lesbian Parents in the United States,” The Williams Institute and Urban Institute, 2007, [http://www.urban.org/UploadedPDF/411437\\_Adoption\\_Foster\\_Care.pdf](http://www.urban.org/UploadedPDF/411437_Adoption_Foster_Care.pdf).
- <sup>5</sup> Ibid.
- <sup>6</sup> Jaime M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman and Mara Keisling, “Injustice at Every Turn: A Report of the National Transgender Discrimination Survey,” National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.
- <sup>7</sup> Gary J. Gates, “Can Homophobia Reduce Your Home Equity,” The Huffington Post, November 9, 2011, [http://www.huffingtonpost.com/gary-j-gates/can-homophobia-reduce-you\\_b\\_1082729.html](http://www.huffingtonpost.com/gary-j-gates/can-homophobia-reduce-you_b_1082729.html).
- <sup>8</sup> Suzanne Macartney, “Child Poverty in the United States 2009 and 2010: Selected Race Groups and Hispanic Origin,” American Community Survey Briefs, November 2011, <http://www.census.gov/prod/2011pubs/acsbr10-05.pdf>.
- <sup>9</sup> Jason Cianciotto, “Hispanic and Latino Same-Sex Couple Households in the United States: A Report from the 2000 Census,” National Gay and Lesbian Task Force Policy Institute and National Latino/a Coalition for Justice, 2005; Alain Dang and Somjen Frazer, “Black Same-Sex Households in the United States: A Report from the 2000 Census,” 2nd Edition, National Gay and Lesbian Task Force Policy Institute, 2005.
- <sup>10</sup> R. Bradley Sears, Gary J. Gates and William B. Rubenstein, “Same-Sex Couples and Same-Sex Couples Raising Children in the United States: Data from Census 2000,” The Williams Institute, 2005.
- <sup>11</sup> Craig J. Konnoth and Gary J. Gates, “Same-sex Couples and Immigration in the United States,” The Williams Institute, November 2011, <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-Konnoth-Binational-Report-Nov-2011.pdf>.
- <sup>12</sup> Ibid.
- <sup>13</sup> Randy Albelda, M.V. Lee Badgett, Alyssa Schneebaum and Gary J. Gates, “Poverty in the Lesbian, Gay and Bisexual Community,” The Williams Institute, 2009.
- <sup>14</sup> Ibid.
- <sup>15</sup> Grant et al., “Injustice at Every Turn.”
- <sup>16</sup> Kristy M. Krivickas and Daphne Lofquist, “Demographics of Same-Sex Couple Households with Children,” U.S. Census Bureau, Fertility & Family Statistics Branch, SEHSD Working Paper Number 2011-11, <http://www.census.gov/population/www/socdemo/Krivickas-Lofquist%20PAA%202011.pdf>.
- <sup>17</sup> See Full Report, pp 11-13 for a full discussion with references and citations.
- <sup>18</sup> Krivickas and Lofquist, Demographics of Same-Sex Couple Households with Children.
- <sup>19</sup> Gates et al., “Adoption and Foster Care”; Evan B. Donaldson Adoption Institute, Expanding Resources for Waiting Children II: Eliminating Legal and Practice Barriers to Gay and Lesbian Adoption from Foster Care, 2008, 12, [http://www.adoptioninstitute.org/publications/2008\\_09\\_Expanding\\_Resources\\_Legal.pdf](http://www.adoptioninstitute.org/publications/2008_09_Expanding_Resources_Legal.pdf).
- <sup>20</sup> Gates et al., “Adoption and Foster Care.” Calculations revised April 2011.
- <sup>21</sup> Gates et al., “Adoption and Foster Care.”
- <sup>22</sup> Gary P. Mallon, “Assessing Lesbian and Gay Prospective Foster and Adoptive Families: A Focus on the Home Study Process,” Child Welfare 86, 2007. Gates et al., “Adoption and Foster Care.”
- <sup>23</sup> See Full Report, pp. 27-28.
- <sup>24</sup> See Full Report, pp. 34-37.
- <sup>25</sup> These states include California, Connecticut, Delaware, Illinois, Massachusetts, New Hampshire, New York, Nevada, Oregon, Rhode Island, Vermont, Washington and D.C. Although Iowa allows same-sex marriage, it does not support a parentage presumption. See Full Report, page 36, footnote 120.
- <sup>26</sup> Gary J. Gates, “Can Homophobia Reduce Your Home Equity?,” The Huffington Post, November 9, 2011, [http://www.huffingtonpost.com/gary-j-gates/can-homophobia-reduce-you\\_b\\_1082729.html](http://www.huffingtonpost.com/gary-j-gates/can-homophobia-reduce-you_b_1082729.html).
- <sup>27</sup> Andrew Chamberlain and Gerald Prante, “Who Pays and Who Receives Government Spending? An Analysis of Federal, State and Local Tax and Spending Distributions, 1991-2004,” Tax Foundation, 2007.
- <sup>28</sup> Internal Revenue Service, “A ‘Qualifying Child,’” October 2011, <http://www.irs.gov/newsroom/article/0,,id=133298,00.html>.
- <sup>29</sup> In addition to claiming a qualifying child, taxpayers can sometimes claim exemptions or credits for dependents known as “qualifying relatives.” Yet because of various restrictions, LGBT taxpayers usually cannot claim their non-legally recognized children as qualifying relatives.
- <sup>30</sup> See Full Report, pp. 67-73 with particular note to page 72, Table 7.
- <sup>31</sup> Survey of LGBT families conducted by GLSEN, COLAGE and the Family Equality Council: J.G. Kosciw and E.M. Diaz, “Involved, Invisible, Ignored: The Experiences of Lesbian, Gay, Bisexual and Transgender Parents and Their Children in Our Nation’s K-12 Schools,” GLSEN, 2008, [http://www.glsen.org/binary-data/GLSEN\\_ATTACHMENTS/file/000/001/1104-1.pdf](http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/000/001/1104-1.pdf).
- <sup>32</sup> Kosciw and Diaz, “Involved, Invisible, Ignored” and Abigail Garner, *Families Like Mine: Children of Gay Parents Tell It Like It Is*, Harper Collins, 2004.
- <sup>33</sup> Jeffrey Wolf and Kevin Torres, “Boulder Catholic School Student Expelled Because His Parents Are Gay,” March 5, 2010, [http://www.huffingtonpost.com/2010/03/05/boulder-catholic-school-k\\_n\\_487172.html](http://www.huffingtonpost.com/2010/03/05/boulder-catholic-school-k_n_487172.html).
- <sup>34</sup> 58.5% of workers get insurance from their employers; see Elise Gould, “Employer-Sponsored Health Insurance Erosion,” Economic Policy Institute, 2009, [http://www.epi.org/publications/entry/health\\_picture\\_20090910](http://www.epi.org/publications/entry/health_picture_20090910). Kaiser Family Foundation (KFF) reached a similar conclusion (59% of firms of three or more workers); see “Employer Health Benefits: 2010 Annual Survey,” KFF and Health Research & Education Trust, 2010, 48, <http://ehbs.kff.org/pdf/2010/8085.pdf>. For children specifically, see “Health Coverage of Children: The Role of Medicaid and CHIP,” KFF, July 2010, <http://www.kff.org/uninsured/upload/7698-04.pdf>. KFF found that in 2008, of the nearly 79 million children in the United States, the majority (58%) received health insurance from a parent’s employer-sponsored plan or through private sources.
- <sup>35</sup> U.S. Bureau of Labor Statistics, “Employee Benefits in the United States – March 2011,” July 26, 2011, <http://www.bls.gov/news.release/pdf/ehs2.pdf>.
- <sup>36</sup> When these benefits are offered, the IRS typically requires employers to determine a fair market value of the benefit, report it on the W-2 form, and then tax it. See Full Report, page 82, footnote 323.
- <sup>37</sup> Naomi G. Goldberg, Christopher Ramos and M.V. Lee Badgett, “The Fiscal Impact of Extending Federal Benefits to Same-Sex Domestic Partners,” The Williams Institute, September 2008, <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Badgett-Goldberg-Ramos-52521FiscalAnalysis-Sept-2008.pdf>.
- <sup>38</sup> See Full Report, page 81, footnotes 318 and 321.
- <sup>39</sup> Estimate of average annual premium for family from KFF, “Survey of People Who Purchase Their Own Insurance,” 2010 and “Employer Health Benefits: 2010 Annual Survey.”

- <sup>40</sup> See Full Report, Page 80.
- <sup>41</sup> Michael A. Ash and M.V. Lee Badgett, "Separate and Unequal: The Effect of Unequal Access to Employment-Based Health Insurance on Same-Sex and Unmarried Different-Sex Couples," *Contemporary Economic Policy*, 24, 582-599, <http://williamsinstitute.law.ucla.edu/research/economic-impact-reports/new-study-on-health-insurance-inequality-and-domestic-partner-benefits>.
- <sup>42</sup> In March 2010, 3.3 million children received TANF benefits compared to 4.3 million children receiving OASDI benefits. TANF data available from U.S. Dept. of Health and Human Services, Administration for Children and Families, "TANF: Total Number of Child Recipients, Fiscal and Calendar Year 2010," March 16, 2011, <http://www.acf.hhs.gov/programs/ofa/data-reports/caseload/caseload2010.htm>; Social Security benefit data available from Social Security Administration (SSA), "Fact Sheet on the Old-Age, Survivors and Disability Insurance Program," accessed July 1, 2010.
- <sup>43</sup> Paul N. Van de Water and Arloc Sherman, "Social Security Keeps 20 Million Americans Out of Poverty: A State-by-State Analysis," Center on Budget and Policy Priorities, 2010.
- <sup>44</sup> SSA, "Fact Sheet."
- <sup>45</sup> National Center for Lesbian Rights, and Legal Services of Northern California, "California Public Benefits Issues for Lesbian, Gay, Bisexual, and Transgender Clients: A guide for Attorneys and Advocates," 2011, [http://www.nclrights.org/site/DocServer/LGBT\\_Public\\_benefits\\_advocates\\_guide.pdf?docID=8741](http://www.nclrights.org/site/DocServer/LGBT_Public_benefits_advocates_guide.pdf?docID=8741).
- <sup>46</sup> SSA, "SSA's Program Operations Manual System," Section PR 01605.035 New York. <https://secure.ssa.gov/apps10/poms.nsf/lnx/1501605035> (This link has subsequently been removed, and requests for more information via a Freedom of Information Act request have been denied).
- <sup>47</sup> Lawyers.com Wills and Estate Planning Survey conducted by Harris Interactive, December 2009, <http://www.lexisnexis.com/media/press-release.aspx?id=1268676534119836>.
- <sup>48</sup> Carmen DeNavas-Walt, Bernadette D. Proctor, and Jessica C. Smith, "Income, Poverty, and Health Insurance Coverage in the United States: 2009," U.S. Census Bureau, Current Population Reports, P60-238, 2010.
- <sup>49</sup> Albelda et al., "Poverty in the Lesbian, Gay and Bisexual Community."
- <sup>50</sup> Carmen DeNavas-Walt, Bernadette D. Proctor, and Jessica C. Smith, "Income, Poverty, and Health Insurance Coverage in the United States: 2010," U.S. Census Bureau, 2011, 60-239.
- <sup>51</sup> Julia Isaacs, Heather Hahn, Stephanie Rennane, C. Eugene Steuerle and Tracy Vericker, "Kids' Share 2011: Report on Federal Expenditures on Children Through 2010," Brookings Institute and Urban Institute, 2011.
- <sup>52</sup> Scott Hodge, "Putting Corporate Tax 'Loopholes' In Perspective," Special Report #184, Tax Foundation, 2010.
- <sup>53</sup> In 1960, the share of domestic federal spending on children was 20% compared to just 16% in 2009; this marked a 20% decrease over that time. Isaacs et al., "Kids' Share 2011."
- <sup>54</sup> Liz Schott and LaDonna Pavetti, Ph.D., "Many States Cutting TANF Benefits Harshly Despite High Unemployment and Unprecedented Need," Center on Budget and Policy Priorities, Revised October 2011, <http://www.cbpp.org/files/5-19-11tanf.pdf>.
- <sup>55</sup> See Full Report, pp. 51-66 for a detailed fully-referenced discussion of these means-tested programs.
- <sup>56</sup> See, for example, Alaska's consolidated public benefits application that asks all applicants for Medicaid, Food Stamp, TANF, and other state-level programs to provide information about "yourself and the people living in your home" and for income information asks, "Do you, or anyone who lives with you, receive money from employment?" <http://dpaweb.hss.state.ak.us/e-forms/pdf/gen50b-packet.pdf>. Likewise, Arizona's consolidated online application for medical, food/nutrition, and cash assistance asks applicants to include (among others) the following people in the household on the application: "Your spouse", "Your child (includes your stepchild)", "Your child's other parent", "A child related to you who you are caring for", and "Someone not listed above who is purchasing and preparing food with you". For these household members, you must also report income and asset information. <https://www.healtheazona.org/app/Login.aspx>.
- <sup>57</sup> See Full Report, pp. 57-58.
- <sup>58</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, Action Transmittal OCSE-AT-97-10, July 30, 1997, <http://www.acf.hhs.gov/programs/cse/pol/AT/1997/at-9710.htm>.
- <sup>59</sup> Sean Cahill and Kenneth T. Jones, "Leaving Our Children Behind: Welfare Reform and the Gay, Lesbian, Bisexual and Transgender Community," The Policy Institute of the National Gay and Lesbian Task Force, 2001.
- <sup>60</sup> U.S. Dept. of Health and Human Services, Administration for Children and Families, The Building Strong Families Project, 2010.
- <sup>61</sup> See Full Report, pp 60-62.
- <sup>62</sup> HUD, "Public Housing Occupancy Guidebook," 2003.
- <sup>63</sup> Martha M. Galvez, "What Do We Know About Housing Choice Voucher Program Location Outcomes?" What Works Collaborative, 2010; Margery Austin Turner, Stephen L. Ross, George C. Galster and John Yinger, "Discrimination in Metropolitan Housing Markets: National Results from Phase I HDS 2000," Urban Institute, 2002. This study found that African American renters experienced negative treatment in more than one out of five instances, and Latino/a renters experienced negative treatment in one out of four instances.
- <sup>64</sup> Fair Housing Center of Southeastern Michigan, "Sexual Orientation and Housing Discrimination in Michigan: A Report of Michigan's Fair Housing Centers," 2007.
- <sup>65</sup> California, Colorado, Connecticut, D.C., Hawaii, Illinois, Iowa, Maine, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont and Washington.
- <sup>66</sup> Delaware, Maryland, Massachusetts, New Hampshire, New York and Wisconsin.
- <sup>67</sup> Abbie Goldberg, *Lesbian and Gay Parents and Their Children: Research on the Family Life Cycle*, American Psychological Association, 2009. See also Garner, *Families Like Mine*, 20. One lesbian parent poignantly expressed her concerns in a blog post: "This pressure to be perfect places an enormous strain on our families and can prevent us from seeking important mental health, substance abuse or other services that could address the very problems we feel constrained from discussing. It leaves service providers unaware of the need to put certain programs in place. And it can prevent us from reaching out to friends and family for support." Cindy Rizzo, "LGBT Families and the Pressure to Be Perfect," August 30, 2007, <http://www.equalfamily.org/blog/?p=327>.
- <sup>68</sup> "Every time children with LGBT parents agree to talk, . . . participate in research, or even come out about their family in a social setting, they know they are not only representing their own families—they are opening the window to an entire population." Garner, *Families Like Mine*, 20.
- <sup>69</sup> See Full Report, pp 98-117.
- <sup>70</sup> This could work in two ways. First, the legal relationships of same-sex couples at the state level would be recognized as "federal domestic partners." Second, same-sex couples who are not or cannot be legally recognized at the state level would be required to submit an affidavit stating that they qualify based on several criteria including that both individuals are of the same-sex, are unmarried but in a committed, intimate relationship with one another, and are not a domestic partner of any person except the other individual.
- <sup>71</sup> Recent federal clarification for the Family and Medical Leave Act (FMLA) allows individuals who are standing in loco parentis for a child to access FMLA benefits.
- <sup>72</sup> HUD, "Public Housing Occupancy Guidebook," 2003.
- <sup>73</sup> USDA, "FNS Pre-Screening Tool Help System."
- <sup>74</sup> U.S. Office of Personnel Management, "Definitions Related to Family Member and Immediate Relative for Purposes of Sick Leave, Funeral Leave, Voluntary Leave Transfer, Voluntary Leave Bank, and Emergency Leave Transfer," <http://www.opm.gov/oca/leave/html/FamilyDefs.asp>.
- <sup>75</sup> The U.S. Dept. of Agriculture's non-discrimination policy prohibits discrimination based on sexual orientation, but it does not apply to federal assistance programs operated by the Food and Nutrition Service, including SNAP, school lunch programs and WIC. U.S. Dept. of Health and Human Services, "Food and Nutrition Service, Civil Rights," <http://www.fns.usda.gov/cr/justice.htm>.
- <sup>76</sup> Currently able-bodied adults without children may only receive food stamps for three months in a 36-month period unless they work at least 20 hours a week.
- <sup>77</sup> There are models in California, Ohio and Illinois for increasing enrollment in state-provided or state-subsidized healthcare. United States Government Accountability Office, "Means-Tested Programs: Information on Program Access Can Be an Important Management Tool, March 2005. <http://www.gao.gov/new.items/d05221.pdf> and [http://www.state.nj.us/humanservices/dmahs/news/NJFC\\_Workgroup\\_Report.pdf](http://www.state.nj.us/humanservices/dmahs/news/NJFC_Workgroup_Report.pdf).
- <sup>78</sup> See this example from National Center for Lesbian Right and Legal Services of Northern California: [http://www.nclrights.org/site/DocServer/LGBT\\_Public\\_benefits\\_advocates\\_guide.pdf?docID=8741](http://www.nclrights.org/site/DocServer/LGBT_Public_benefits_advocates_guide.pdf?docID=8741).





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